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Floor Debate  
April 17, 2007

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[LB73 LB73A LB367 LB368A LB453 LB648 LB674 LR81]

SENATOR FLOOD PRESIDING

SPEAKER FLOOD: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber on the sixty-fifth day of the One Hundredth Legislature, First Session. Our chaplain for today is Pastor Jim Miller with the Grace United Methodist Church in Hastings, Nebraska. Please rise.

PASTOR MILLER: (Prayer offered.)

SPEAKER FLOOD: Thank you, Pastor Miller. Pastor Miller is from Senator Burling's district. I call to order the sixty-fifth day of the One Hundredth Legislature, First Session. Senators, please record your presence. Record please, Mr. Clerk.

CLERK: I have a quorum present, Mr. President.

SPEAKER FLOOD: Thank you, Mr. Clerk. Are there any corrections for the Journal?

CLERK: I have no corrections, Mr. President.

SPEAKER FLOOD: Are there any messages, reports, or announcements?

CLERK: Mr. President, a new A bill. Senator Erdman offers LB368A. (Read bill by title for the first time.) A new resolution: Senator Flood would offer LR81. That will be laid over. That's all that I have, Mr. President. (Legislative Journal pages 1191-1192.) [LB368A LR81]

SPEAKER FLOOD: Thank you, Mr. Clerk. We will now proceed to the first item on the agenda.

CLERK: Mr. President, the first bill, LB674, was introduced by Senator Lathrop at the request of the Governor. (Read title.) It was introduced on January 17 of this year. At that time it was referred to the Judiciary Committee. The bill was advanced to General File. There are Judiciary Committee amendments, Mr. President. (AM805, Legislative Journal page 1121.) [LB674]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Lathrop, you are recognized to open on LB674. [LB674]

SENATOR LATHROP: Thank you, Mr. President, and good morning, colleagues. LB674 is a bill that I introduced in Judiciary Committee. It deals with ID theft from the employer's workplace. And the bill was subsequently gutted by the...thank you. [LB674]

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SPEAKER FLOOD: Please limit your conversations. Thank you. [LB674]

SENATOR LATHROP: The bill was subsequently gutted by the committee, and in its place is AM805, and I'm going to introduce both at the same time. It's a fairly straightforward bill but there is no sense in talking about the bill in its original form other than the concept, and I can cover that in the committee amendment. The amendment which is AM805 addresses a growing problem across the country and in Nebraska of employee ID...pardon me, Social Security number theft, which allows the theft of one's Social Security number...allows those engaged in that kind of enterprise to steal your ID, get credit cards, and otherwise cause financial problems for Nebraskans and people across the country. Just as a little bit of background on this bill: In 2006, nearly 9 million Americans became victims of identity theft. The average cost of those crimes was about \$6,400 per incident, and that doesn't take into account the cost in time and effort necessary for the victim of ID theft to resolve the problem created by the theft. The Social Security number is the primary piece of data used by those who steal one's identity. Seventy percent of ID theft occurs in the workplace. Ninety percent of that involves payroll...theft of Social Security numbers and names from payroll or employment records, while only 10 percent comes from customer lists. The bill that is offered today and its amendment, Nebraska will join a growing number of states which have chosen to address this concern legislatively. Currently, there are 11 states that have passed laws of this sort that we will consider this morning. Let me walk you through the bill if I can and give you the important considerations. Basically, this bill is directed to one part of identity theft, and that is the identity theft that happens because your Social Security number and your name are displayed in the workplace. And they can be displayed on lists, they can be displayed when a company uses them as an employee ID number, and they can be displayed in files. AM805 prohibits employers from publicly posting more than the last four digits of a Social Security number. It also prohibits someone from transmitting more than the last four digits over an Internet connection unless the Internet connection is encrypted. And it prohibits Social Security numbers as a computer password unless some other unique ID is also required. And fourth, it prohibits any use of more than the last four digits as an employee ID or use for other employment-related activity. There are exclusions to the prohibitions. One exclusion is that an employer may use the Social Security number as required by state and federal law. An employer may use the entire Social Security number for internal administrative purposes such as communicating with the health insurance company, the 401K company, and the like. And the third exclusion from the prohibitions is transactions in the usual course of business between the employee and the employer. So if the employee goes to the employer, not as an employee but as a customer, and buys something or purchase goods or services, the Social Security number can be used by the employer as they would with any other customer. That is the overview of the bill. It is necessary. I will tell you that when we introduced LB674 in committee, there were a number of people who testified in opposition. Many people from the business

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community testified in opposition. We have met with each opponent, original opponent of the bill. Their concerns had to do with whether or not the original version of LB674 was too prohibitive and interfered with the ability of employers to conduct their business. My office has met with every person that had a concern. Every concern has been resolved. This bill represents good public policy and it also represents a bill for which I have no...I don't believe there is any opposition from the business community or any other opposition, for that matter, and so, colleagues, I would encourage you to vote for AM805 and as well as LB674. Thank you, Mr. President. [LB674]

SPEAKER FLOOD: Thank you, Senator Lathrop. Mr. Clerk. [LB674]

CLERK: Mr. President, committee amendments offered by Judiciary: AM805. [LB674]

SPEAKER FLOOD: Senator Ashford, you are recognized to open on AM805 as the Chairman of the Judiciary Committee. [LB674]

SENATOR ASHFORD: Yes, thank you. I'm going to actually defer to Senator Lathrop to open on the committee amendments. [LB674]

SPEAKER FLOOD: Senator Lathrop. [LB674]

SENATOR LATHROP: Thank you, Senator Ashford. I've just given an overview of AM805. As I indicated before, LB674 was introduced in committee. There was a great number of concerns expressed by people in the business community. The committee amendment, AM805, was necessary to satisfy the concerns of those in the business community. It is responsive to those concerns. We have accommodated everyone who has approached us with a concern about LB674, and you have a homogenized version of the prohibition against using Social Security numbers in the workplace in AM805. And again I would ask for your support for the amendment and the bill. [LB674]

SPEAKER FLOOD: Thank you, Senator Lathrop. You've heard the opening on the committee amendments to LB674. We now go to General File discussion. Senator Wightman, you're recognized. [LB674]

SENATOR WIGHTMAN: Thank you, Mr. Speaker, members of the Legislature. I can certainly understand the purpose and the reasoning behind LB674. At the same time I do have some questions, and it may well be those have been considered, and so if Senator Lathrop would yield for a couple of questions, I would like to satisfy my own curiosity. [LB674]

SPEAKER FLOOD: Senator Lathrop, will you yield to a question for Senator Wightman? [LB674]

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SENATOR LATHROP: I would be happy to. [LB674]

SENATOR WIGHTMAN: Thank you. Senator Lathrop, I would invite your attention to, I guess it would be page 2, lines 17 and 18, and maybe that whole subdivision of Section 2, subdivision (a), where it talks about publicly post or publicly display. And I'm assuming that means outside of a particular office, not necessarily within the office. Is that correct? [LB674]

SENATOR LATHROP: Let me tell you what the concern was with that, that we addressed with that, and that is there were and there are employers who will post, and not intentionally or deliberately or carelessly or with any kind of disregard for employee theft, but just as a matter of habit, Social Security numbers on lists, and perhaps use them as ID numbers for schedules and the like. So this prohibition is aimed at the public display of Social Security numbers as a form of ID or used in connection with scheduling employees and the like. [LB674]

SENATOR WIGHTMAN: But... [LB674]

SENATOR LATHROP: It would not prohibit the internal use of the Social Security number by people in the accounting or people in the employee benefits department of a business as necessary to administer payroll and as necessary to administer the employee benefit plan. [LB674]

SENATOR WIGHTMAN: But a small office, for example, say there were five or six in an office, and those files are maintained and probably everybody in the office has access to that. You don't see that as being in violation, having those in a file drawer that's accessible to other employees in the office? [LB674]

SENATOR LATHROP: Well, within certain limitations that's true. What this bill will not permit is simply to have files sitting around the office that anybody can pick up with all the numerals of a Social Security number available to anyone in the office. That does become a problem and that's exactly what this is intended to address. [LB674]

SENATOR WIGHTMAN: Well, let's just say, for example, that there was an office that included maybe a couple of partners and four or five employees, and these files that would have this information on them are in a closed file drawer but available to every member of that office, which I think is very common in a lot of offices, would that be a violation in your opinion? [LB674]

SENATOR LATHROP: I think it would not be a violation to the extent the people who have access to the Social Security numbers have some reason to have access to them, okay? So if you have..and take your law firm, for example, or mine...if you have someone who is in charge of administering employee benefits, that's an exception.

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There is no problem with that person having access to the files. But simply to have files sitting around with everybody's Social Security number and have people who have no excepted purpose for accessing that, would be a problem. [LB674]

SENATOR WIGHTMAN: Okay. In addition to that section, I guess I would invite your attention to page 4, line 4, and then from there to the end of the amendment. It says an employer who violates this action is guilty of a Class V misdemeanor. I would ask you, is that common... [LB674]

SPEAKER FLOOD: One minute. [LB674]

SENATOR WIGHTMAN: ...in legislation that you reviewed in other states? [LB674]

SENATOR LATHROP: I believe it is. I believe that in order to have any teeth to the mandate of this section, you have to have a penalty for its violation, and I think that's not unusual in this type of legislation. [LB674]

SENATOR WIGHTMAN: And I guess I'm also concerned in a small office where you say evidence of that conviction is admissible in evidence at a civil trial. So if somebody got in and, one of the employees, and disclosed that information, and somebody had \$100,000 on his credit cards, are you saying that the employer might well be liable for that? [LB674]

SENATOR LATHROP: There is still the necessity that there be a causal relationship between the... [LB674]

SPEAKER FLOOD: Time. [LB674]

SENATOR WIGHTMAN: Thank you. [LB674]

SENATOR LATHROP: Thank you. [LB674]

SPEAKER FLOOD: Thank you, Senator Wightman. Senator Engel, followed by Senator Hansen. [LB674]

SENATOR ENGEL: Mr. President and members of the body, I certainly support this bill because I think this is a problem in a lot of the workplaces. But I see the penalty, a Class V misdemeanor, and that's a maximum of no imprisonment, \$100 fine, and no minimum. Is that much of a penalty at all? Senator Lathrop? [LB674]

SPEAKER FLOOD: Senator Lathrop, will you yield to a question from Senator Engel? [LB674]

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SENATOR LATHROP: I would be happy to. Senator Engel, with respect to the fact that it's a classified misdemeanor in the hierarchy of crimes, what we're trying to do with this bill is to get the attention and change the practices of employers, and not try to find a way to convict somebody of a felony or get to the place where we impose a jail sentence for its violation. So I think in the grading the gravity of crimes out there, we thought a Class V misdemeanor was appropriate. [LB674]

SENATOR ENGEL: Okay. Well, thank you very much. You're in the legal profession and I'm not; it just didn't seem like very much to me. Thank you very much. [LB674]

SPEAKER FLOOD: Thank you, Senator Engel. Senator Hansen. [LB674]

SENATOR HANSEN: Thank you, Mr. President and members of the body, this morning. I rise in support of the amendment and therefore the bill. Union Pacific Railroad has had a huge problem in this, contrary to Senator Wightman's claim, you know, your question was for small offices using each other's identity number, and if it was used as a Social Security number, if it was used as that number. The Union Pacific Railroad has an employee ID number but still they use the Social Security number when they're asked to sign in for advanced education at seminars and things for their business, and for a log-in for advanced activities. This was in 2006, 26,000 names were stolen off of a laptop. This is not a small deal in the state of Nebraska. And unfortunately we need to do something, and I think this bill is going to do it. In March 2007, there was a flashcard that was missing from a laptop. And what I understand is that the flashcard didn't have a PIN number or any type of security. So that puts another whole group of people at risk. So I think that this legislation is going to be needed, and then a lot of education used if they want to keep their Social Security number intact and actually use the employee ID number of those firms and businesses that do have those rather the use of their Social Security number. This is unfortunately a much needed bill and I thank Senator Lathrop for bringing it forward. Thank you, Mr. President. [LB674]

SPEAKER FLOOD: Thank you, Senator Hansen. Senator Wightman, you are recognized. [LB674]

SENATOR WIGHTMAN: Thank you, Mr. President. I still would like to ask a couple of questions of Senator Lathrop. And I think I support his legislation but I do have some questions as to how it may affect some relatively small businesses. [LB674]

SPEAKER FLOOD: Senator Lathrop, will you yield to a question from Senator Wightman? [LB674]

SENATOR LATHROP: I will. [LB674]

SENATOR WIGHTMAN: We were in the middle of discussing the civil liability under

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Section 5 or subsection (5) on page 4. I do see it as being of some concern with regard to very small businesses, and some employee obviously could have access to that and perhaps be a troublemaker and disclose that information. Do you see that as being any problem? [LB674]

SENATOR LATHROP: Well, let me address the civil liability part if I can. First of all, the civil liability, we don't create a cause of action with this legislation. There is a cause of action presently available to employees just through general negligence principles. If an employer mishandles someone's private information then there may well be...this is not intended to set up a new cause of action. If there is a cause of action, it will exist under existing tort principles. All this says is the evidence of the conviction will be admissible in whatever civil case might follow. [LB674]

SENATOR WIGHTMAN: Okay. I understand that. Do you think that means...in your opinion, does that mean that any file containing any of the employees' Social Security number has to be under lock and key? [LB674]

SENATOR LATHROP: I would say that...as a...yes, the short answer is yes. I think that under this bill what we're trying to do is to change employer practices with respect to Social Security numbers. From now on, they need to be protected from those who have access to them except for administrative purposes. If a person has access to that Social Security number for some reason other than administrative purposes, then they would be included in the prohibitions and outside the exclusions, in my judgment. [LB674]

SENATOR WIGHTMAN: So if we don't have locks to our file drawers, maybe we should find locks to our file drawers? [LB674]

SENATOR LATHROP: Well, I think...you know, you and I both have small businesses and I can appreciate your concern but I think the short answer is, you should. This is a very, very significant problem to the people whose Social Security number and names are lifted in the workplace. [LB674]

SENATOR WIGHTMAN: Thank you, Senator Lathrop. Thank you, Mr. President. [LB674]

SPEAKER FLOOD: Thank you, Senator Wightman. Senator Fulton, followed by Senators Nelson and Carlson. [LB674]

SENATOR FULTON: Thank you, Mr. President. Would Senator Lathrop yield for a question? [LB674]

SPEAKER FLOOD: Senator Lathrop, will you yield to a question? [LB674]

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SENATOR LATHROP: Yes, I would. [LB674]

SENATOR FULTON: Senator Lathrop, I'm curious about the parts that refer to the Internet. I mean, that's where this problem is really...has really proliferated and has become a pandemic. How...this is page 2, subsections...well, it's beginning on line 19, subsection (b). Will this be applicable to...? I guess, how do we identify which Internet sites this applies to? Would it apply to sites that are hosted, say, on servers in Nebraska, or are they for companies that are based in Nebraska? And to that end, then how would we enforce this? [LB674]

SENATOR LATHROP: The language of the prohibition addresses the transmission, so we would be concerned with employers in the state of Nebraska who are transmitting Social Security numbers of employees. And what it requires is if you are...let's say that you have an employee benefit plan with Mass Mutual or somebody like that who administers the 401K. You should not be transmitting Social Security numbers over the Internet for people to steal in manners that they can, and I don't understand how they do it but they do, unless that is a secure line or the information is encrypted. It's simply a protection and it's on the transmission end of it, so what we're talking about is employers. So if somebody from Iowa is transmitting the entire Social Security number of an employee into the state of Nebraska, that's not a violation because this addresses the transmission which would be the employer sending it out from the state of Nebraska to other businesses or for other purposes. [LB674]

SENATOR FULTON: Okay. What if there is a...and I'm not...I guess I am trying to be devil's advocate. I'm supportive of the bill. I guess I want to make sure that it hits all the circumstances in the future. What if there is site that one does background checks on? In my business, we do background checks on people that we hire, and part of the background check requirement is the Social Security number. There is no...it's difficult for a business owner in Nebraska to verify that it's an encrypted server with encrypted ability on the other end. So, say there is a background check company in New York or California or somewhere outside the state of Nebraska, would an employer be prohibited from entering an employee's Social Security number, unless he has some idea that it's on an encrypted line or a Secure Socket Layer's line or something? Would he be prohibited from doing that? [LB674]

SENATOR LATHROP: Two parts to that answer. First of all, that's a legitimate administrative purpose, dealing...trying to get somebody's credit record, if you're a bank and you need to know if the person is a person of good credit before you hire them or anybody else, or to run background checks. Those are legitimate administrative purposes. Most of the people that you would be trying to get a background check from already recognize this problem and have encrypted or secure lines. So I don't think it's going to be a problem but I do think it's incumbent upon an employer transmitting a Social Security number to a background check agency or a credit bureau to ensure that

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the line is secure or that the information is encrypted. [LB674]

SENATOR FULTON: Okay. And then I have one last question that I...this probably will be an easy answer for you. I don't have an idea on how the enforcement procedures existed in principles of tort law that you referenced earlier. [LB674]

SPEAKER FLOOD: One minute. [LB674]

SENATOR FULTON: How is this enforced? Do businesses police themselves or is there an auditing mechanism? I guess, how do we...? [LB674]

SENATOR LATHROP: Well, no, there is no auditing mechanism. What would take place, is if there is a violation, and that requires a certain amount of intent, or carelessness at a minimum, then you are subject to a Class V misdemeanor, \$100 fine. Is there a civil action for negligently handling someone's information, Social Security number? It may well be. I would imagine that under just general tort principles, which is the mandate that people behave in a careful manner when they have a duty to do so, would permit a cause of action against somebody who has negligently mishandled Social Security numbers that lead to ID theft. [LB674]

SENATOR FULTON: Thank you. Thank you, Mr. President. [LB674]

SPEAKER FLOOD: Thank you, Senator Fulton. The Chair recognizes Senator Nelson, followed by Senators Carlson, Louden, and Gay. Senator Nelson. [LB674]

SENATOR NELSON: Thank you, Mr. President and members of the body. I have some questions for Senator Lathrop if he will yield. [LB674]

SPEAKER FLOOD: Senator Lathrop, will you yield to a question from Senator Nelson? [LB674]

SENATOR LATHROP: Certainly. [LB674]

SENATOR NELSON: Senator Lathrop, I would gladly ask these questions of Senator Ashford but I would imagine he would defer to you again and let you answer them, so. Can you tell me the extent that these Social Security numbers are presently used by large employers as ID numbers? [LB674]

SENATOR LATHROP: I think that the...as Senator Hansen indicated, this really came to my attention because of problems that developed or a consequence of their use with Union Pacific. I should add and want to add they are a great corporation, a good member of our business community in Nebraska, but at the same time there is a significant amount of use of Social Security numbers where people can get to them. It is

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a problem. [LB674]

SENATOR NELSON: Fine. You mentioned the large number of objections and tell us that all of those have been pretty much resolved. Can you recall maybe two or three of the major objections,--I noticed the University of Nebraska, the Department of Administrative Service--what problems this bill entailed for them and how they were resolved? [LB674]

SENATOR LATHROP: Certainly. I think that the greatest share of concerns that were expressed by the business community was the ability to, first of all, use the full Social Security number as required by federal law, and the second area is administrative uses. When we prepared the bill, when we drafted the bill, it's hard to imagine all the circumstances and the uses that businesses put to or use the Social Security number for, and many of them have to do with administrative purposes. They need to be able to communicate with the health insurance carrier, and they typically will use Social Security numbers, 401K benefit plans, things of that sort. [LB674]

SENATOR NELSON: But apparently once these objections were overcome, everybody seems all right with the bill as this. You're assuring us of that. [LB674]

SENATOR LATHROP: That's exactly right. We have...and I'll put my light on and give you a list of the people that we have met with and accommodated, and it's probably not all-inclusive but it will give you a pretty good idea of the people that we have and the businesses and the public interest groups that we've met with to accommodate. [LB674]

SENATOR NELSON: Fine. With regard to Union Pacific Railroad and Senator Hansen's comments and in some part Senator Fulton's concern, even though we do this, there is still going to be a problem with hackers and people like that even though the employers use security to the best of their ability and everything. There still has to be a list of Social Security numbers for tax purposes and things like that, and I don't think we're going to be able to prevent it 100 percent, from those numbers getting out. But I am supportive of the bill. It seems to me like it's a good bill. Thank you, Senator. [LB674]

SENATOR LATHROP: Thank you. [LB674]

SPEAKER FLOOD: Thank you, Senator Nelson. Senator Carlson, you are recognized. [LB674]

SENATOR CARLSON: Mr. President and members of the Legislature, I believe that I stand in support of the concept of LB674 and AM805. I do have a question I'd like to address to Senator Lathrop. [LB674]

SPEAKER FLOOD: Senator Lathrop, will you yield to a question from Senator Carlson?

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[LB674]

SENATOR LATHROP: Yes, I will. [LB674]

SENATOR CARLSON: We've been discussing water issues. We'll discuss them again and so this may be a question that's very clear to you but you can help me understand the concept here, that we're not simply taking care of a small leak and are in danger of not handling the potential big flood. And I may have this turned around but I think in terms of my own situation back home, and our office has an attorney's firm on one side and an attorney's firm on the other, so let's use that as an example. In my office, let's suppose we've got ten employees, and your office is right next to mine and you have ten employees. We have employee files and we have client files. And it turns out that the ten employees in my office are clients of yours, and the ten employees in your office are clients of ours, and we each have 100 clients. Our employees get mixed up back and forth, and we're, in this bill, concentrating on protecting the identity of our own employees but they are clients in your office. And so we've got this focus on employee protection, and yet their identity next door with you is because of clients. And so I'm not against this but help me understand how addressing this is helping the identity situation and how does that differ a lot from the fact that we've got client files and they all have Social Security numbers? [LB674]

SENATOR LATHROP: Right. That's a good question and a legitimate concern. It points out the fact that your Social Security number and your name, which are the two ingredients to stealing your ID, can be stolen in a number of different circumstances. This bill is only intended to address the relationship between the employee and the employer. Your concern with respect to client files is a fair one. This bill doesn't address that, but my ethics, my canons of ethics as a lawyer, have something to say about, and probably yours as an insurance agent, would have something to say about how you handle client information, confidential information. Confidentiality is really the hallmark of both our professions. Did I answer that? [LB674]

SENATOR CARLSON: I agree with that. So this bill is addressing a portion of the identity problem... [LB674]

SENATOR LATHROP: That's true. [LB674]

SENATOR CARLSON: ...and we need to look at it that way, and I think it's a worthy effort. Thank you, Senator Lathrop. [LB674]

SENATOR LATHROP: Thank you. [LB674]

SPEAKER FLOOD: Thank you, Senator Carlson. Senator Louden, followed by Senators Gay and Lathrop. Senator Louden. [LB674]

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SENATOR LOUDEN: Thank you, Mr. President and members of the body. As I was looking at this bill over and trying to understand it and the amendment that went with it, I was wondering if Senator Lathrop would answer questions, if he would, please? [LB674]

SPEAKER FLOOD: Senator Lathrop, will you answer a question from Senator Louden? [LB674]

SENATOR LATHROP: I would be happy to. [LB674]

SENATOR LOUDEN: Senator Lathrop, as I looked at the committee statement, I think about everybody behind the glass was an opponent or a proponent, with most of them being opponents, and then as you come up with this amendment you're literally...I wouldn't say you didn't rewrite the whole bill. You added a considerable amount out in the middle of it to line up what would be considered and what would be not considered to be used for that. Is there any of this that would be superseded by federal law? [LB674]

SENATOR LATHROP: Honestly, I'm not sure if there is any federal legislation on the subject matter. So I think we are working right now in an area that is, as it relates to this bill, unregulated. [LB674]

SENATOR LOUDEN: Okay. Otherwise there is nothing out there to protect these people on this such a thing. And I say, for the most of it, they usually just have to give their last four digits of their Social Security number. And that would be my concern is whether we're putting something into place that's already taken care of in the federal law or that sort of thing, because at the present time whenever you do anything that's all you give is your four digits number. Would you care to answer to that for...? [LB674]

SENATOR LATHROP: Yes, I can answer this. I'm not aware of any federal statute that addresses this problem. I think we are going to be the only...this will be the only legislation and the only statute that restricts the use of the Social Security number in the workplace. [LB674]

SENATOR LOUDEN: Okay. And then as I noticed, it's a Class V misdemeanor which is a \$100 fine. And when we put all this into statutes and someone violates that, is that really a stiff enough fine or is the fact that you put in there, what was it, evidence of a conviction can be used in a civil court. Is that your hammer, I guess part 5 of that? Is that actually your hammer rather than a \$100 misdemeanor? [LB674]

SENATOR LATHROP: Well, as I indicated before, I don't think we're creating a cause of action. To the extent one exists, this would be evidence of it. But I guess I take the approach that as soon as we regulate this area, we'll see employers across the state

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comply. And I don't know that having a...that we need to make it a Class II misdemeanor or a Class I misdemeanor, for example, in order to get compliance by the employment and the employer community. [LB674]

SENATOR LOUDEN: Well, yeah, Senator. As a lawyer then, if people violate other parts of statutes that have...you know, with identity theft, is that \$100 fine in line with it or is it considerably more in those areas with identity theft? [LB674]

SENATOR LATHROP: Well, that's a great question. The thing about this bill is that it's trying to get to what is unintentional conduct, and that is to say the people that steal are the people that ought to be charged with some kind of a more significant crime because they are committing essentially a felony if they steal your ID and then go out and roll up thousands of dollars on a credit card. The \$100 fine is to someone who has done something careless with information, not someone who took it and then took advantage of it and got credit cards and ran the bills up, and... [LB674]

SPEAKER FLOOD: One minute. [LB674]

SENATOR LOUDEN: Okay. Well, I'll probably support the amendment. I was just curious to know whether or not this...by putting this statute into law and putting these laws in, if we're treating them seriously enough afterwards because someone like huge corporations, a \$100 fine, you know, they pay more than that for someone to clean the office in the evenings, and that was my concern. So thank you, Senator Lathrop, and thank you, Mr. President. [LB674]

SPEAKER FLOOD: Thank you, Senator Louden. Next up we have Senator Gay, followed by Senators Lathrop, Rogert, Ashford, Wightman, Avery, and Nantkes. Senator Gay. [LB674]

SENATOR GAY: Thank you, Mr. President. Listening to the discussion, I support...I'm leaning to supporting this, but I think it is just common, what is hopefully becoming common business practices to protect identity theft. And in the businesses I'm in, we take great pains to do this, and a lot of people are. Some questions I have though, and if Senator Lathrop would yield to a few questions, I think he could clarify. [LB674]

SPEAKER FLOOD: Senator Lathrop, will you yield to a question from Senator Gay? [LB674]

SENATOR LATHROP: Yes. [LB674]

SENATOR GAY: Thank you. Senator Lathrop, a question I had, during the committee hearings when you talked about the...I looked at the statement of intent. There are larger employers who are testifying and other things. Was there discussion on how this

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affects some of the smaller employers? Let's say you have a five-person plumbing company, and, you know, Senator Wightman referred to, well, everybody needs to lock up their things, but some unintentional consequences where...you're just a small employer and you can't keep up with all the regulations. Was there any discussion at all about we should include them in this? [LB674]

SENATOR LATHROP: First of all, the folks that came to testify on this bill were primarily the interest groups and the large corporations. So we didn't have testimony, as I recall, from opponents who were small business operators, the kind of people that run an office like mine or Senator Wightman's. Do I think that they should be included? I do because when we regulate employment relationships, that should apply, for the most part...we have some discrimination statutes that don't apply until you have so many employees...but when we're talking about stealing someone's ID and someone's stuff, that's not unique to a large business and there is no rational reason that I can think of to exclude a small business from the requirement that they be careful with their employees' Social Security numbers. [LB674]

SENATOR GAY: Okay. So when you were doing your research, I guess it's a problem that everyone is facing is what you're saying? So this isn't just, well, I'm going to get the 8,000 names from a...you read about those in the paper quite a bit. But let's say somebody steals the eight other employees you're working with. Do you think the problem is as bad at the lower end than...or the smaller employer, as well, then? That's your intent of this legislation, to encompass everybody? [LB674]

SENATOR LATHROP: Yes. Good question, Senator Gay, and the answer is, the difficulty is the person, you think about the true criminal in this situation, and that's the guy who gets himself employed somewhere. Maybe he's got a meth habit, takes a temporary job, and just goes from place to place, and gets into an office setting and tries to mine Social Security numbers. And that's happening whether you need a bookkeeper for two days in a small plumbing concern or whether you are the Union Pacific or Woodmen of the World. [LB674]

SENATOR GAY: Okay. And then one more question. As far as the...so you get that situation where somebody comes in and their intent was bad and they come in just to steal these, but the employer has old files or something like that. This person is ransacking the files, gets the files. How is that...? We talked about \$100 fine, but so could that employer then be held in another law or in another court? They could be held liable for that, too? I mean just for leaving those laying around? [LB674]

SENATOR LATHROP: I have to tell you that my practice does not include bringing claims against employers for ID theft, so I'm not sure precisely what the principles are, but my guess is that they are negligence principles and that gets back to whether the employer behaved as a reasonable person would under the like circumstances to

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somebody they owed a duty to, and that's legal jargon for were they careful with the Social Security numbers? If they are not and you can prove that the source of the theft started with an employer who violated this act, then I think you're on your way to making the claim. [LB674]

SENATOR GAY: Okay. All right. [LB674]

SENATOR LATHROP: And probably is the big hammer. [LB674]

SENATOR GAY: Okay, thank you very much. Well, as I mentioned, I am leaning in supporting this. I do have a few concerns though about how this works. Unfortunately, I hope somebody doesn't have to go through that process to find out, because I do think this is becoming more and more a standard business practice in the larger employers, but when we talk about encryption and some of these other things, I get kind of lost on that. I think many of us are. But the larger employers are able to deal with those kind of things, and I know many have. I just get a little worried about some of the small employers. Now we're talking encryption and this and that, and, you know, how do they find out that we even passed this law, I guess? So that's where I...you know, they don't have the full-time personnel manager and things like that to pay attention to these things, so I guess that's a concern. [LB674]

SPEAKER FLOOD: Time. [LB674]

SENATOR GAY: Thank you, Mr. President. [LB674]

SPEAKER FLOOD: Senator Lathrop, you're recognized. [LB674]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I would like to respond to a couple of concerns that I've heard expressed and also to give you an indication of the people that we have...let me give you a list of some of the people that we've talked to who have participated in what has become the final version or AM805. We have met with and accommodated the Department of Administrative Services, Nebraska Insurance Federation, Burlington Northern Santa Fe, Lincoln Public Schools, the city of Omaha, Nebraska Bankers Association, University of Nebraska, Blue Cross Blue Shield, Nebraska Retail Federation, and J.C. Penney. We have also had a good number of people who have talked to me and talked to my legislative assistant, who have come in to review the bill, and said, yeah, it's fine; you've covered my concerns; I just wanted to make sure that there weren't problems. And they've been satisfied that the bill is properly crafted to get to the problem without becoming a burden on employers. Senator Loudon and Senator Gay have both expressed concern about the big business and little businesses, and let me make a suggestion. First of all, when it comes to big businesses, they typically have a human relations department, an HR department, and those folks are very aware, they attend seminars, they are very aware

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of the latest changes in the law. I'm not particularly concerned that big business will not make the changes even though the consequence is a Class V misdemeanor, only a \$100 fine. They do that every day with respect to withholding taxes and other regulations that we impose on business. Small businesses get word of these types of changes through the National Federation of Independent Businessmen, through the chamber of commerce, through those sorts of business communities who will send out to their membership a summary of bills passed in the last legislative session and the things you need to do to be in compliance. So I don't have any concern that big business and little business will get word of this new requirement and mandate from the Legislature. Thank you. [LB674]

SPEAKER FLOOD: Thank you, Senator Rogert. Senator Ashford, followed by Senators Wightman, Avery, Nantkes, and Pankonin. Oh, before we go to Senator Ashford, Senator Rogert. That was certainly inadvertent. You may begin. [LB674]

SENATOR ROBERT: Thank you, Mr. President. Sit down, Senator Ashford, I'm not done. Senator Lathrop, would you please yield to a question? [LB674]

SPEAKER FLOOD: Senator Lathrop, will you yield to a question from Senator Rogert? [LB674]

SENATOR LATHROP: Yes I will. [LB674]

SENATOR ROBERT: Or several actually. Senator Lathrop, how many other states in the Union have a statute such as this? [LB674]

SENATOR LATHROP: Currently, 11 other states. [LB674]

SENATOR ROBERT: Did we draft our or your amendment following anybody in particular? [LB674]

SENATOR LATHROP: Frankly, when we drafted the original bill, we did it and went through some concepts and came up with our own version. We quickly learned that 11 other states have done this and then we went to the 11 other states for ideas that became part of this amendment to accommodate the business community. [LB674]

SENATOR ROBERT: Can you talk me through just a little bit where, in the section you described, an employee and an employer, who is allowed to have this information and disseminate it. You give several exceptions and just for a matter of clarification can you kind of run through that with me? [LB674]

SENATOR LATHROP: I would be happy to. The structure of the amendment is this: It sets out four prohibited acts and then it sets out exclusions, and then it sets out

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exemptions from the exclusions. And the prohibitions are against publicly posting more than the last four digits or displaying more than the last four digits of a Social Security number. And that really tries to get at going by the office and finding the computer printout that has the schedule, your names on it, and your Social Security number is right below it. It also prohibits transmitting over the Internet, which I discussed with Senator Fulton, more than the last four digits of a Social Security number unless that's a secure line or the information is encrypted. It also requires or prohibits the use of the Social Security number as a password which is, if you think about it, a way other people can get to your Social Security number if they know who you are. And then of course the fourth one is it prohibits the use of anything more than the last four digits as an employee identification form. [LB674]

SENATOR ROBERT: Okay. Thank you, Senator Lathrop, and thank you, Mr. President. [LB674]

SPEAKER FLOOD: Thank you, Senator Rogert. Senator Ashford, you are recognized. [LB674]

SENATOR ASHFORD: Sit down, Senator Rogert. Thanks, Mr. Speaker. (Laughter) First of all, I want to thank Senator Lathrop for all the work he's done on this bill. This is an important piece of legislation and he worked with a number of individuals who did come in and oppose the bill for a variety of reasons, and he's done an excellent job in getting this worked out. Senator Loudon asked whether or not there was any federal law, and I think Senator Lathrop did answer this, but just for the record, effective January 1, there is a change in federal law that requires employers to print no more than the last four digits of employees' Social Security numbers or to use an employee ID number other than the Social Security number on employee pay stubs or itemized statements. So there continues to be recognition in federal law, Senator Loudon, and as Senator Lathrop indicated, 11 states have handled this in a variety of ways. However there is no federal law that preempts the work that Senator Lathrop has put into the committee amendments that deals with the administrative use of these Social Security numbers. Also, just for the record, in answer to Senator Gay's question about the size of employers, certainly the federal law does not draw a line based on the size of the employer, and as Senator Lathrop suggests and I think it's accurate and I'm a small business owner, it should not. The harm is as great to an employee of a small business as it is to a large business, albeit possibly easier for a large business to get information on these law changes. But with that, Mr. Speaker, I would urge the adoption of the committee amendments and advancement of the bill. Thank you. [LB674]

SPEAKER FLOOD: Thank you, Senator Ashford. Senator Avery, you are recognized. [LB674]

SENATOR AVERY: Thank you, Mr. Chair. This question I have for Senator Lathrop may

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have already been answered, but would you yield? [LB674]

SPEAKER FLOOD: Senator Lathrop, will you yield to a question from Senator Avery?  
[LB674]

SENATOR LATHROP: Yes, I will. [LB674]

SENATOR AVERY: It's my understanding that the unlawful use of identification documents is historically a federal offense? Is that correct? [LB674]

SENATOR LATHROP Can you repeat that? I couldn't hear you. [LB674]

SENATOR AVERY: The unlawful use of identification documents is historically a federal offense. [LB674]

SENATOR LATHROP: I would assume that there is some legislation, federal legislation, on identification theft, but I couldn't tell you whether the feds have passed a statute making that a crime. It certainly fits perfectly within just general theft principles. If you have somebody's Social Security number and their name, and you are out opening credit cards in their name and Social Security number, which is a typical MO for one of these things, that that would be a violation of the theft statutes of the state, as well. [LB674]

SENATOR AVERY: I guess my concern is that we might be redundant here because there is a 2003 law at the federal level dealing with Identity Theft and Assumption Deterrence Act, so my curiosity here or my question is whether or not we're taking action at the state level that is duplicative of what already exists at the federal level. [LB674]

SENATOR LATHROP: Well, I don't know what the federal statute says. You haven't shared that with me so I didn't have a chance to read it before I answered your questions. The concern that this bill attempts to address is the employment environment where most of the theft is happening. Most of it's happening, and I don't think we've been preempted in this area by any other legislation or it wouldn't be still going on; it would not still be taking place. And so I'm not concerned that the area has been preempted or that we are going into an area, trying to legislate at the state level where the feds have already been. [LB674]

SENATOR AVERY: Thank you. That's all I have, Mr. Chair. [LB674]

SPEAKER FLOOD: Thank you, Senator Avery. Senator Nantkes, you are recognized. [LB674]

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SENATOR NANTKES: Thank you, Mr. President. Would Senator Lathrop please yield for a few questions? [LB674]

SPEAKER FLOOD: Senator Lathrop, will you yield to a question from Senator Nantkes? [LB674]

SENATOR LATHROP: Yes. Yes, I will. [LB674]

SENATOR NANTKES: Thank you, Senator Lathrop. I think the debate and dialogue on this important piece of legislation has been really interesting this morning, but particularly as a member of the Appropriations Committee and reviewing the file and looking over the fiscal note that is attached to this bill. I was wondering, you noted earlier in some of your comments that you had been working with DAS and other state agencies to craft this committee amendment. Is that right? [LB674]

SENATOR LATHROP: Yes, I have. [LB674]

SENATOR NANTKES: And were they able to give you any indication during those conversations about possible fiscal impact more so than are delineated in the fiscal note? [LB674]

SENATOR LATHROP: I think the fiscal note preceded our amendments and we have accommodated them so that the consequences from a fiscal point of view have been minimized. Will they have to change some practices? Perhaps. But I don't know that the state was very far away from these practices in the first place. [LB674]

SENATOR NANTKES: So essentially state agencies will probably be able to cover these costs within existing budgets rather than this legislation adding significant additional costs to their operations? [LB674]

SENATOR LATHROP: I would certainly think so. [LB674]

SENATOR NANTKES: Okay. And then just one other question, Senator Lathrop. I know that AARP has been doing a lot of work in the arena of identity theft and otherwise, and I didn't see them listed on the committee statement, probably maybe, I'm guessing, because this is in relation to employment. But have you had any conversation with their representatives about their work and concern about these issues? [LB674]

SENATOR LATHROP: Well, I am aware, like you, that AARP is concerned about identity theft. I did not have a specific conversation with AARP concerning this particular piece of legislation or going into the employer/employee relationship and legislating the manner in which Social Security numbers will be managed. [LB674]

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SENATOR NANTKES: All right. Thank you so much, Senator Lathrop. With that I yield the balance of my time to Senator Lathrop if he so desires. [LB674]

SPEAKER FLOOD: Senator Lathrop, would you like the balance of Senator Nantkes' time at 2 minutes, 44 seconds? [LB674]

SENATOR LATHROP: Well, I'll use a bit of it. I think that...a great discussion this morning. Everyone has many concerns and it reflects the concerns that were expressed by the business community when this bill was before the Judiciary Committee. And I'm happy to answer these questions because I believe we have accommodated every concern of the business community. Still, I don't know of one interest or business that we've not accommodated, and ultimately AM805, I think, is an example of the legislative process at its best. We start out with a legitimate concern that's taking place in this state. We started out with a bill, and it was crafted to allow businesses to protect Social Security numbers and the Social Security numbers of their employees while at the same time minimizing the consequences on the employer as they try to administer a business and run a business. So, again, I think AM805 is good legislation, necessary, and warrants your vote today. [LB674]

SPEAKER FLOOD: Thank you, Senator Lathrop. (Visitors introduced.) We now continue with General File discussion on LB674. Senator Pankonin, you are recognized. [LB674]

SENATOR PANKONIN: Thank you, Mr. President and members of the body. As I listened to the discussion this morning, I think about my own small business, Pankonin's Incorporated, a farm equipment dealership of 15 employees, and how this would affect my business. I think it's got a good intent and that we all need to be more responsible with these numbers, but I just want to tell a little bit about the practical problems that some small businesses will have or at least have to face with this legislation. I'm, first of all, disappointed that NFIB-Nebraska wasn't consulted. That's a very active group, probably the largest membership small business organization in the state. They have lobbyists in the state and I would have liked it if they would have been involved in these discussions. Just from a practical standpoint on how we handle our payroll, is that I think our records for the last three or four years are, or I know they are, are in a safe, but when you get...we have to save those records for like seven years or supposed to, and when you get in those out years they end up going...the safe is not big enough...go into a file that maybe have, I'm not saying unrestricted access, but maybe someone could get them if they knew what they were looking for. So we think about some of the practical things you might have to do. The other thing that we face is sometimes some of the companies we represent, the smaller manufacturers called short-line manufacturers, have a little SPIFF programs where a salesman can get a \$200 commission direct from that company but you have to give them the Social Security number. Usually it's on a written form that goes in, sent in, and I would assume under

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this law that wouldn't be...you wouldn't be able to do that so you would probably have to figure out some way to communicate that to that company or not give your salespeople that accommodation. The reason those companies need it is for 1099s that they need to file down the road. So in a business like mine, what you are going to have to do is buy a bigger safe or you take the records home, thinking that's a more secure place than in your small business, which sometimes we do that. Those are the kinds of things you do to try to comply. And then you talk to your manufacturers you represent on how you could comply with this law. So I'm not saying it's a bad idea. I think the intent is good. We all need to be more responsible with this information. As Senator Erdman said earlier this morning, in the short time ago that he was at the University of Nebraska, they posted your grades by your Social Security number. I remember that from many years ago. That's how a lot of times in a lot of classes you found your grade, and we've all gotten more sensitive about this information. But to inform small businesses we're going to have use organizations like NFIB or when we send out the sales tax notices to all of our small businesses that this, if this becomes the law, here's what you need to do to try to comply. I think most people will try to do it. But it will be more difficult for a lot of small businesses that are trying to do a good-faith effort in keeping the records that they need to keep, yet they've run afoul of this one in having to probably get a bigger safe or some other procedure to lock them up the best they can. Thank you. [LB674]

SPEAKER FLOOD: Thank you, Senator Pankonin. Senator Nantkes, you are recognized. [LB674]

SENATOR NANTKES: Thank you, Mr. President. Would Senator Lathrop yield to a few questions, please? [LB674]

SPEAKER FLOOD: Senator Lathrop, will you yield to a question from Senator Nantkes? [LB674]

SENATOR LATHROP: Yes, I will. [LB674]

SENATOR NANTKES: Senator Lathrop, I apologize. I forgot to bring up this subject in our last discussion, but could you please maybe illuminate for us any discussions you have had about the treatment of temporary employees in this context? [LB674]

SENATOR LATHROP: I'd be happy to. And temporary employees have been specifically treated in this legislation because the temporary employee is the perfect opportunist or is in the perfect position to come in from one business to the next and to mine Social Security numbers and names from employer files. The bill sets forth certain administrative uses and exceptions to the prohibition against using the full Social Security number. Then it describes those situations which are not legitimate administrative uses, and we have specifically treated the temporary employee in that situation because of their opportunity to move from business to business and secure

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Social Security numbers, which have a value. I mean, they can sell these Social Security numbers and names for up to \$100 each, and once sold they can then be used by the person who purchases them to set up credit cards, set up accounts, and the like. It is not a legitimate or a permissive use for internal administrative purposes to allow a temporary employee access to Social Security numbers unless that employee is bonded or insured under a blanket corporate assurity bond. And, again, that's responsive to the fact that employees of a temporary nature can go from one business to the next and, really without any loyalty to the company, find Social Security numbers and names, and then sell them to folks that will later steal your identification. [LB674]

SENATOR NANTKES: Thank you, Senator Lathrop. And with that I would yield the balance of my time to Senator Lathrop if he so desires. [LB674]

SPEAKER FLOOD: Senator Lathrop, you have 2 minutes, 45 seconds. [LB674]

SENATOR LATHROP: Well, thank you, again, for the question, Senator Nantkes, and Senator Pankonin, for your thoughtful remarks. I do believe that any time we legislate in the area of business and we require something from either big business or small businesses, that there is always a concern about how are they going to learn about this and are we burdening them at all. In my law office we have locked file cabinets; all of the employee records are kept in the locked file cabinet and accessible only by the person who does payroll. And I think that's just common sense and probably already happening in an awful lot of business. So I don't see that this is a big departure from common sense. Maybe it's, for the most part, an effort to draw attention to the problem. Again, the fine is not a large fine because I would expect people to comply with this law once it's passed, and I do think that the NFIB and the chamber of commerce will do their usual good work in notifying their membership of the new requirements relative to employees' Social Security numbers. Thank you. [LB674]

SPEAKER FLOOD: Thank you, Senator Lathrop. There are no other lights on. Senator Lathrop, you are recognized to close on the Judiciary Committee amendments, given the absence of Senator Ashford from the Chamber. [LB674]

SENATOR LATHROP: I would be happy to close on AM805. Thank you very much for the discussion this morning. I think that, again, this is an example of the legislative process at its best. We heard, offered an idea in response to a problem. It was put into the process. It was refined. We can accommodate big and small business, and at the same time address a growing concern. ID theft happens more times in the employment relationship than it does where someone goes through your garbage and finds old credit card applications or steals your ID, your Social Security number, through other means. So we're dealing with an important problem. We've crafted the amendment to accommodate the business community. It is necessary legislation and I would appreciate your support on AM805. [LB674]

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SPEAKER FLOOD: You've heard the closing on the Judiciary Committee amendment, AM805, to LB674. The question before the body is, should AM805 be adopted? All those in favor vote aye; all those opposed vote nay. Record please, Mr. Clerk. [LB674]

CLERK: 35 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB674]

SPEAKER FLOOD: The committee amendments are adopted. We now go back to General File discussion on LB674. Seeing no lights on, Senator Lathrop, you are recognized to close on LB674...I spoke too soon. Senator Gay, you wish to speak on General File. You are recognized. [LB674]

SENATOR GAY: Thank you, Mr. President. I hit my light late so I caught you off guard. I did want to make one point just out of respect for Senator Lathrop. I still have a little bit of a...I think we just helped this bill out and I just voted to support the amendment. I still have a little bit of anxiety in me to put this into law as where it deals with the smaller employers. And I guess between now and Select File I want to go home and talk to some constituents, talk to some of these smaller employers, the chamber of commerce, and some of those other things that Senator Lathrop mentioned, just to make sure we're not doing something wrong. But in my head I say, well, should there be an amendment at 15 employees or less or something like that? So I didn't want to catch you off guard. I wanted to be on record now saying what I'm looking into and I don't know if on Select File I will file that amendment. But I do think it's something we need to be a little cognizant to that how will this affect that small employer: What is he going to have to do? Senator Pankonin referred to his practices. And so I just wanted to get that on the record and I don't want to hold things up but I wanted to get that on the record, and we can have a discussion with Senator Lathrop hopefully between now and Select File. So thank you, Mr. President. [LB674]

SPEAKER FLOOD: Thank you, Senator Gay. Seeing no other lights on, Senator Lathrop, you are recognized to close on LB674. [LB674]

SENATOR LATHROP: Thank you. Obviously LB674 has become the...the amendments of AM805 have now become LB674. Again, I would ask you to support this bill by moving it from General File with your vote. Thank you. [LB674]

SPEAKER FLOOD: Thank you, Senator Lathrop. You have heard the closing on LB674. The question before the body is, should this bill advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Record please, Mr. Clerk. [LB674]

CLERK: 34 ayes, 0 nays, Mr. President, on the advancement of LB674. [LB674]

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SPEAKER FLOOD: LB674 advances to E&R Initial. The next bill, Mr. Clerk. [LB674]

CLERK: Mr. President, if I might, a couple of items. Your Committee on Enrollment and Review reports LB73 and LB73A to Select File. (Legislative Journal pages 1192-1193.) [LB73 LB73A]

Mr. President, the next bill this morning, LB367, a bill originally introduced by Senator Janssen. (Read title.) The bill was introduced on January 12 of this year; referred to the Revenue Committee. The bill was advanced to General File. I do have Revenue Committee amendments pending, Mr. President. (AM911, Legislative Journal page 1050.) [LB367]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Janssen, you are recognized to open on LB367. [LB367]

SENATOR JANSSEN: Thank you, Mr. Speaker and members of the Legislature. I would like to start by saying that LB367 was completed by a lot of hard work within the Revenue Committee. In some people's opinion, we are a high-tax state. I remember a few years ago we were forced to raise revenue, which was a very hard thing to do. There was a lot of nail biting and gnashing of teeth, but the people in this state did tighten their belts and stepped up to the plate because we knew that we were in an economic downturn. Now we're in a position where we can give some tax relief to those same people that stepped up to the plate. Your Revenue Committee has had some long and hard debates on how to achieve this situation. And in my opinion we've come to a conclusion that we should have a broad area to try to reduce the tax burden on our constituents and the people of this state. And those same people who stepped up to the plate a few years ago should get some relief now that we are in the situation we're in. That's my opening remarks and I'm sure we will have a lengthy discussion and I look forward to the debate on LB367. Thank you, Mr. Speaker. [LB367]

SPEAKER FLOOD: Thank you, Senator Janssen. There are committee amendments. Senator Janssen, you are recognized to open on Revenue Committee amendment AM911. [LB367]

SENATOR JANSSEN: Thank you, Mr. Speaker. LB367 is the committee's tax cut proposal involving property taxes, income taxes, sales tax, and estate taxes. The proposal would reduce by over \$400 million over the next two years. It provides relief in a number of ways for taxpayers in all areas of the state. It is designed to provide broad tax relief, and at the same time it addresses completely a few of the more pressing inequities in our state tax system. It accomplishes a lot for \$400 million. The committee worked very hard to address all viewpoints and appealed to a broad segment of concerns expressed on this floor. I think you will find it responsive to your taxpayers, and balanced in approach. I ask for your support. Property taxes would be reduced by

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two parts in this plan. First, a property tax credit would provide during the next two years to all real property owners in this state. In 2007-08, the credit would consist of \$100 million, which would provide about an 8-cent levy reduction for every \$100 of property value. The credit would be continued in 2008-09 with funding of \$50 million, creating about a 4-cent labor reduction for every \$100 of property value. Amounts after 2008 would be set by the Legislature, but I would hope that future legislatures would continue to provide funds for property tax credit at least until the next economic downturn, and we don't know when that's going to happen. The property tax credit will appear on your property tax statement as a credit for each parcel of real estate. The taxpayer will pay the tax bill on the amounts in excess of the credit, and the state will reimburse local subdivisions for the lost revenue. The amounts of credit, while estimated to be 8 cents, will not be known to the subdivisions when they complete their budgets, therefore there will be a little incentive to inflate the budgets in expectation of that credit. When this method of property tax relief was used in 2000, there was no evidence of any increased rates by spending growth by local governments. This credit in this Sections 1-4 of the committee amendments. In addition, the second year, Section 23 of the amendments would reduce the school tax levy from \$1.05 to \$1. This returns school taxes to the 2001 level and restore your commitment to a promise made to property tax payers in the mid-1990s. All property tax payers, including those in a school district with a levy below \$1, would benefit from the reduction if the school district will receive equalization aid. The 5 cents in levy reduction in 2008 would result in about \$59.6 million in additional state aid to schools in that year. This means that all but a handful of school districts would be fully reimbursed for the loss of revenue. Regarding sales tax, two changes would be made. The bill would repeal the sales tax on construction labor for commercial projects effective October 1, 2007. This tax was first implemented by LB759 in 2003, and has been controversial ever since. Last year, LB968 removed the sales tax for construction labor on single family residences and duplexes, and LB367 would complete that repeal. These changes are in Sections 10-16 of the committee amendments. Second, Sections 7-9 would enact a new sales tax exemption for community-based wind energy projects which would be enacted under the proposal. Section 22 of the amendments would also increase the current tax credit for renewable energy projects slightly, and eliminate one megawatt capacity requirement to make the credits available for more projects. These exceptions of the Nebraska estate tax would be increased from \$1 million to \$2 million; this is in Section 6. Regarding the income tax, the bill would make three changes. It would eliminate the so-called marriage penalty by increasing the married filing joint brackets so that they would be double the current single return level. Heads of the household brackets would also be increased proportionately. Second, the current standard deduction would be increased to the federal level. Finally, the maximum income tax credit applicable for income greater than \$54,000 for a joint return under the amendment would be decreased from 6.84 percent to 6.65. All these changes would be retroactive to cover the current 2007 tax year and are found in Sections 17 and 19 of the committee amendments. Finally, the plan repeals the business childcare expense credit for businesses providing subsidized childcare.

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This credit was first authorized in 2001 but has been delayed several times and becomes operative in 2007. This change would save \$3.1 million over the next two years. This change requires harmonizing six other sections and it constitutes the rest of the bill. As I said earlier, I believe the Revenue Committee amendments reflect a good balance of competing interests. It was approved by a nearly unanimous vote in the committee and best satisfies the needs and desires of various constituencies. The following strengths of LB367 overcomes arguments that a different mix of approach might be superior. Number one, more than half of the entire tax cut would be property taxes. As most of you campaigned last year heard, property taxes are the leading complaint by the citizens. The committee wanted property tax reduction to be focused on the tax cut plan, and LB367 achieves this goal, with property tax portions would be \$100 million in the first year, and \$110 million in the second year. The 5-cent reduction of the levy limit would be permanent while a credit could be reduced or eliminated when fiscal times are tough. It should be kept in mind that credits could be increased in future years should the financial situation improve. Number two, the income tax reduction creates fairness for married couples and makes progress in competitiveness with other states. Resolving the so-called marriage penalty has been before the Legislature in different bills the last ten years, but we have never been able to afford to resolve the issue. The reduction on the top (inaudible), while less than proposed by the Governor, would improve our standing among 50 states with regard to income taxes. Third, the increase in the estate tax would match the federal exemption. While I'm sure that some of your constituents have asked you to repeal the estate tax totally, repeal cannot be afforded right now. If we are to make the progress that this bill makes on property taxes, income tax, by matching the current federal estate exemption, LB367 would eliminate their current obligation for some estates to file a state estate return where there is no obligation to file a federal return. The \$2 million exemption... [LB367]

SPEAKER FLOOD: One minute. [LB367]

SENATOR JANSSEN: ...will protect all small businesses, farms, from sales results in succession. Number four, the construction labor tax has been the most unpopular aspect of the tax increases that were enacted in 2002-03, more unpopular than the levy increases, more unpopular than income tax increases, more unpopular than sales tax increases. Nothing will be passed this year that will eliminate more paperwork or headache for small business in this aspect. These are the high points of the committee amendments, AM911, and I ask for your support of the committee amendments to LB367. Thank you, Mr. Speaker. [LB367]

SPEAKER FLOOD: Thank you, Senator Janssen. You've heard the opening on the committee amendments to LB367 by the Chair of the Revenue Committee. We will now proceed to General File discussion. We'll now proceed to General File discussion, Senator Cornett. [LB367]

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SENATOR CORNETT: Thank you, Mr. President and members of the body. I move to divide the committee amendments to LB367, AM911, into three divisions as follows: one, property tax divisions; two, other divisions; and three, income tax. [LB367]

SPEAKER FLOOD: Senator Janssen and Senator Cornett, would you please come to the bench? (Pause in proceedings.) The Chair rules that the committee amendment to LB367 is divisible into three divisions as follows, and in the following order: The first division will be represented by AM970. It's the property tax division, Sections 1-4, 23, 25, 27, and 31. The second division, represented by AM972, includes Sections 6-16 inclusive, 22, 25, 27, 28, and Section 30. The third division, represented by AM971, referred to as the income taxes division, includes Sections 5, 17-21 inclusive, 24-26 inclusive, and Section 29. We will now move to the opening by Senator Janssen on the first division, AM970. Senator Janssen, you're recognized to open. (Legislative Journal page 1193.) [LB367]

SENATOR JANSSEN: Thank you, Mr. Speaker. Until I get the right one here, I want to...okay. The first, AM921 in the first division, introduces the question on how big can the tax cut be. You know, what can we afford? How should it be paid for? Before any of the contents of LB367 were determined, the Revenue Committee looked at a number of scenarios that...put together by the Legislature and the Fiscal Office containing assumption as to spending growth in the Cash Reserve Fund. The Revenue Committee discussed these scenarios at length and described the tax cut should be about \$210 million annually. Secondly, the committee decided to use no Cash Reserve Fund transfers to help to pay for these tax cuts. When it was finally put together, it's consistent with these goals, the estimated fiscal impact for the total proposal is about \$218 million through 2007-08, those fiscal years, and \$211 million for 2008-09. The reason the first year is higher is because the income tax cuts are retroactive, effective in the 2007 tax year. The committee amendments call for no Cash Reserve Fund transfers to the fund. AM921 calls for a small cash reserve transfer the first year. The first division of the committee amendments calls for \$100 million to be transferred from the General Fund to the newly created Property Tax Credit Cash Fund to pay for the property tax credits for fiscal year 2007-08. AM921 calls for only \$80 million transfer from the General Fund and \$20 million from the Cash Reserve Fund the second year. Adopting this segment would smooth out the impact of the tax cuts. The General Fund impact would be \$198 million in the first year and \$211 million in the second. This is closer to the committee's original goal but would call for a Cash Reserve Fund transfer. In my opinion, this amendment isn't needed, but I believe we can fully fund the tax cut without the Cash Reserve Fund transfer, and I will not ask for your vote on AM921. But I'm interested in discussion about the appropriate size of the tax proposal. With that, thank you, Mr. Speaker. [LB367]

SPEAKER FLOOD: Thank you, Senator Janssen. You've heard the opening on AM970, the first division of three to LB367. Mr. Clerk, do you have any amendments? [LB367]

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CLERK: I do, Mr. President, and I might indicate to the membership that your Chamber Viewer will reflect the order of the amendments as filed by each of the components. So Mr. President, the first amendment to this component of the committee amendments is by Senator Janssen, AM921. (Legislative Journal page 1064.) [LB367]

SPEAKER FLOOD: Senator Janssen, you're recognized to open on AM921 to AM970. [LB367]

SENATOR JANSSEN: Thank you, Mr. Speaker. I did...on AM921 I did most of them, but I'll go over that one again. It introduces the question on how big the tax cut can be and what the state can afford, and how should it be paid for. Before any of the contents of LB367 were determined, the Revenue Committee looked at a number of scenarios put together by the Legislative Fiscal Office containing assumptions as to the spending growth and Cash Reserve Fund transfers. The committee discussed those scenarios at length and decided the tax cut bill should total around \$210 million annually. Secondly, the committee decided not to use Cash Reserve Fund transfers to help pay for those cuts. When it was finally put together, it is consistent with these goals, and estimated fiscal impact on the total proposal is about \$218 million for the 2007-08 fiscal year, and \$211 million for fiscal year 2008-09. The reason the first year is higher is because the income tax cuts are retroactive, effective for the entire 2007 tax year. The committee amendment calls for no transfer from the Cash Reserve Fund. AM921 calls for a small Cash Reserve Fund transfer in the first year. The first division of the committee amendments call for \$100 million transferred to the General Fund to the newly proposed Property Tax Credit Cash Fund to pay for the property tax credits for the fiscal year 2007-08. AM921 calls for only \$80 million transfer to the General Fund, and \$20 for the Cash Reserve Fund. Adoption of the amendment would smooth out the impact of the tax cut. The General Fund impact would be \$198 million in the first year and \$211 million in the second year. This is closer to the committee's original goal, but would call for a Cash Reserve Fund transfer. In my opinion, the amendment is needed, and I believe we can fully fund the tax cut without the cash reserve transfer. I will not ask for your vote on AM921, but I'm interested in discussion on the appropriate size of the tax cut proposal. Thank you. [LB367]

SPEAKER FLOOD: Thank you, Senator Janssen, for your opening on AM921. We now go to discussion of the amendment to the first division. Senator Friend, you're recognized to open, followed by Senator White. [LB367]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. I wasn't absolutely ready for the division the way it's in, and am more prepared to talk a little bit about creating some historical perspective here. It's easy--I know it's easy--to go door-to-door and talk about cutting people's taxes. I did it. I know it's easy. I looked in their faces and I said it, and I did it, and I meant it. But it is easy. It's quite another thing

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to actually go out as a legislative body and actually go and do it. Now, last year, this legislative body, for the first time since I've been here, did it. Further, it's quite another thing to cut taxes and do it in an appropriate way, or more or less, in a way that promotes the most efficient growth and promotes the best...what we would consider to be the best economic principles. I filtered through LB367, and I believe that we're going to go through some analysis that indicates to us that the bill does that. The bill does promote those sound economic principles, and I think we're headed in an appropriate direction. But evidently, as this division indicates, we're going to analyze that piece by piece, and we're going to analyze it pretty thoroughly. A couple years ago Senator Pam Redfield brought an amendment out to this floor during a debate very similar to this and tried to recodify our sales tax. It went over a little...with a little more popularity than a lead balloon, okay? I think I voted for it, but I think we had 15 votes and it went up in flames. What Senator Redfield was trying to do--and I think she was right--is to simplify a tax code in this state, a sales tax code in this state, and also reduce sales tax rates that made sense. To a certain degree, LB367 accomplishes some of that--not to a great degree, to a certain degree. LB367, we're also going to go in and reduce some income tax rates. What will that do, you ask? Statistic after statistic--people debate this all the time in political forums, political debates, whatever--I would submit to you that statistic after statistic shows that those type of legislative actions in the long term create jobs, alters people's purchasing behavior for the better, in a positive way, and promotes investment. That investment drives funding for businesses, technologies. It drives ideas. I've got an amendment on this bill, too. I'm not really sure if we'll get to it, but I hope we do,... [LB367]

SPEAKER FLOOD: One minute. [LB367]

SENATOR FRIEND: ...because while I have pointed out that LB367 takes us in an appropriate direction, I have some ideas that might be able to drive us even further down that road in an appropriate direction, if you will. Bush cut taxes in--what was it? The federal government cut taxes in 2002. Tax revenues in 2006 were 18.4 percent of our gross domestic product, which is actually above the 20-year, 40-year, and 60-year historical averages. [LB367]

SPEAKER FLOOD: Time. [LB367]

SENATOR FRIEND: Time? Thank you, Mr. President. [LB367]

SPEAKER FLOOD: Thank you, Senator Friend. Senator White, you're recognized. [LB367]

SENATOR WHITE: Thank you, Mr. President. At the outset, I want to thank Senator Janssen and the members of the Revenue Committee. Indeed, they worked very hard on this bill. I am the only person who did not vote for it. I abstained. But the amount of

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work and their good faith in struggling with some complex issues was overwhelming. So I'd like to thank them for that. I do have a number of serious concerns with this bill, and hopefully we'll have a chance to talk about them. At the outset, I have a real concern right now. This has been divided and described on the property tax side as a tax cut. It is not a tax cut. It is not a tax cut in any way, shape, or form. It is a spending bill. We have overwhelmingly proposed to spend money by transferring funds raised through the sales and income tax, not back to the taxpayers, which is a tax cut, or by refusing to take the money from their pocket, but instead transferring it into the accounts of other taxing entities, subdivisions of governments--NRDs, cities, counties, etcetera. That is not a tax cut. It's not a tax cut now, it will never be a tax cut, no matter what we call it. That raises a number of procedural issues that we will have to explore later, whether or not it has been properly demoninated and joined with other aspects of this bill, which are tax cuts. Passing over those for a moment, I would like to talk to you, my fellow legislators, about what the public really wishes us to do in this debate. When I walked door-to-door, I was overwhelmed by the desire for direct tax relief to homeowners. That has been absolutely substantiated, not just in my neighborhood, but across the state. Before you are excerpts from a polls, summaries of a scientific poll done with over 500 participants, and it indicates overwhelmingly there are two taxes the public, our constituents, want gone. They want us to do whatever we can to reduce their property taxes directly, and then next to that they want the estate tax to disappear. This bill, as proposed by the committee, does neither, and you will have a chance later on to hear proposals that accomplish both completely. Please take the time to carefully read that poll. That poll is an effort to make sure that you hear what your constituents have been saying, and I hope that you look at it and consider it very carefully, because they actually overwhelmingly prefer property tax relief to income tax relief, when questioned on that straight up. Now with regard to the property tax component of this bill, it is a spending bill. What this does is take money and spends it. This hurts us on a number of levels. Number one, historically that has never worked to effectively lower property taxes. It just hasn't. We've attached it with limits, we've tried different things. Sometimes it shows temporary ability to, temporarily on the lowest level, to slow it, but then, the budgets expand right past it. And overwhelmingly, if you talk to people who have been here for 25, 30 years in different contexts, they will tell you this has never worked to control local spending. It is also bad policy. We're taking money from middle-class families who paid it in the form of income tax and sales tax and who live here. This bill, as drafted on the property tax spending side, gives that money overwhelmingly to people who are nonresidents or in amounts that are far in excess of what is fair. I will give you an example. One of the huge, huge beneficiaries of this bill, as drafted by the committee, is Ted Turner. Ted Turner in June of 2006 is reported by Nebraska News Network to own in excess of 350,000 acres of Nebraska real estate. [LB367]

SPEAKER FLOOD: One minute. [LB367]

SENATOR WHITE: Under the committee's bill, he gets an unrestricted tax refund, while

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someone in a small town in the same district who owns a \$75,000 house, gets 60 bucks; \$60. Ted Turner gets hundreds of thousands. Union Pacific Railroad doesn't even ask for this bill--hasn't asked for it--will get in excess of \$850,000 back, and your constituents in the small towns who are begging you for relief with a \$75,000 home, will get a little line on their property tax saying, we've given you a credit of \$60. That's neither equitable nor fair, nor is it what the people want. Hopefully, we'll have a full and fair and complete debate, and you'll have a chance to vote on all issues, including more effective tax cutting rather than spending, as we move forward. I thank you for your attention. I thank again the committee for their courtesy throughout. [LB367]

SPEAKER FLOOD: Thank you, Senator White. Senator Friend, you're recognized, followed by Senators Langemeier, Erdman, Harms, and Raikes. Senator Friend. [LB367]

SENATOR FRIEND: Thank you, Mr. President, members of the Legislature. There's a significant difference, as I pointed out at the very beginning of this discussion, between dealing with appropriate economic principle with our public policy and trying to appease somebody door-to-door. We as a legislative body control income tax and sales tax. The reason two years ago that Senator Redfield brought a recodification of our sales tax is because that was within our purview; we could do that, we could effect tax relief, we could effect better public policy. Senator Redfield believed it was better public policy to lower the tax rate across the board and make our sales tax code more fair. The end result, with all due respect to the folks who masterminded it, of not following Senator Redfield's lead, if I may, was that we went out and handpicked some folks for a tax hike that didn't have a lobby back there to help them. That's where we got our revenue to get out of the \$790 million shortfall. That's what happened. That's why we're here with a bill like LB367, to try to go help these folks that we wronged. Our sales tax code needs to be recodified, for lack of a better way to describe it. I think Senator Redfield was right. She's not here any more, but these debates go on, and these discussions go on. I'm very uncomfortable dealing with this whole division, because we can walk out of this legislative chamber eight hours from now, whenever we get done, and go back and tell our constituents, if we'd like, that we offered them property tax relief. Folks, it's a sham. We can't do it. We don't directly identify with property taxes. It doesn't happen. Indirectly, sure. Let's have that argument out here. Somebody hands me property tax relief from the state right now, do you know what it is? It's spent in 20 seconds, no matter what the amount is. It's spent in 20 seconds. You offer legitimate, real income tax and sales tax relief; that promotes investment in technology, in business, and it creates jobs. You hear the politicians talk about creating jobs? They're not talking about creating public jobs. They're talking about dropping income tax rates, if they can, in order to drive businesses into that state. Our states compete for business. We compete with Iowa, we compete with South Dakota, we compete with Colorado. And guess what? We don't have the Black Hills and we don't have the mountains, and this sounds cliché and you've all heard it, but it's true. So what do we have to do to compete? We have two

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things: We have a sales tax code and we have an income tax code. LB367 legitimately deals with both those aspects. This assessment is going to be deep, and it's going to take a long... [LB367]

SENATOR McDONALD PRESIDING [LB367]

SENATOR McDONALD: One minute. [LB367]

SENATOR FRIEND: Thank you, Madam President. [LB367]

SENATOR McDONALD: One minute. [LB367]

SENATOR FRIEND: Thank you. This is going to be deep, and it's going to take a long time. And the reason for that is that a couple of years ago, with the amount of time...and, look, I haven't spent a day on the Revenue Committee. A majority of people in here haven't either. Do you know what? That's irrelevant, totally irrelevant, absolutely irrelevant. Every one of you has a stake in this, and every one of your constituents do too. I want the focus on direct, appropriate public policy relief--tax relief. I think we can get there. I think it could take awhile. I'm willing to take the time. I hope you are, too. Thank you, Madam President. [LB367]

SENATOR McDONALD: Thank you, Senator Friend. Senator Langemeier, followed by Erdman, Harms, Raikes, Chambers, and others. Senator Langemeier. [LB367]

SENATOR LANGEMEIER: Madam President, members of the body, we're going to be on this for the rest of the day, I believe. I want to focus back on AM921, and I'm going to speak a lot in short increments about each amendment as they come up. This amendment shifts \$20 million out of the cash fund to help this whole package smooth transition as it comes. So I want us to focus on that as we hear a lot of ideas, and we'll deal with each idea as we come to each amendment. But I want us to make sure we focus on each chunk as we go forward. So AM921 is that General Fund transfer from the cash reserve to the General Fund, and with that, I would ask you to support it, and we'll talk as more amendments come up. Thank you, Madam President. [LB367]

SENATOR McDONALD: Thank you, Senator Langemeier. Senator Erdman. [LB367]

SENATOR ERDMAN: Madam President, members of the Legislature, I think tonight Nebraska plays Creighton in baseball, but it appears that the first pitch has already been thrown, so I think we should play ball. Senator White, would you yield to a question for me, so that I can better understand the information that you have distributed? [LB367]

SENATOR WHITE: As always, I would be delighted, Senator Erdman. [LB367]

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SENATOR ERDMAN: As you have shared this graciously with me and, I believe, all members of the Legislature, can you tell me how the poll, I believe, that you have distributed, how that was determined and who was responsible for the funding of that poll? [LB367]

SENATOR WHITE: Well, the poll itself came about because a large group of disparate interests, people who had completely different interests, wanted to explore what the popular opinion was on a number of issues we were likely to take up in the course of this legislative session. You saw discussions in the death penalty of a poll. That was part of this. It was an omnibus bill. So there was just a very diverse group of people taking up very diverse, different issues, that together, put together a scientific poll. The poll itself was conducted as it states, by Myers Research and Strategic Services, and the pollster was available today for interview by the press and was available to be examined on the scientific validity of his methods. [LB367]

SENATOR ERDMAN: Thank you for that lengthy response, but could you give me specifics as to who some of those interests were? [LB367]

SENATOR WHITE: Well,... [LB367]

SENATOR ERDMAN: I understand what you're saying, that this was undertaken into a larger context of other issues before the Legislature, and maybe in a cost-effective way was done. But I'm...I guess I'm curious, directly, who some of those interests were, so that for full and fair disclosure, we can have an understanding of the interests. [LB367]

SENATOR WHITE: Sure. I mean, I don't know who they all were, Senator, so I'm unable to give you a complete answer. I know that the death penalty people probably involved some people from Nebraskans Against the Death Penalty, some from the criminal defense bar, some from other sources that I'm not sure of. You know, there were churches, the Catholic Church, other churches were interested. Whether they contributed, I don't know. In terms of the other aspects of the poll, aspects that aren't involved in this, again I can't tell you exactly who it was. On this one, I think we actually...I helped organize putting it together, so I think we got our questions relatively cheap, like free. [LB367]

SENATOR ERDMAN: Thank you, Senator White, and I guess what I will take from that is, is that folks who ordinarily would or who may not directly have an interest in tax policy, graciously agreed to fund your poll as a part of their poll, because it wouldn't have cost them any more? [LB367]

SENATOR WHITE: Is that a question, Senator, or is that a statement? [LB367]

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SENATOR ERDMAN: It's an observation, and I want your clarification whether that's accurate. [LB367]

SENATOR WHITE: Well, first of all, it wasn't my poll at all. I had questions I was deeply interested in, because I was interested in seeing whether or not the overwhelming desire for property tax that was expressed to me in Benson and Dundee, was shared, for example, in your district, the 3rd District. And so I wanted to know, if I could find out, if this was a statewide issue or if it was truly just an Omaha issue, in an effort to try to actually shape tax policy across the state. And what I found, Senator, was, in fact, in your district overwhelmingly they want to get rid of the estate tax completely, and they want property tax much more than they want income tax, even stronger than in my district. So I was encouraged, in that it is statewide sentiment, and that's why the poll. But it wasn't my poll. I had a couple of questions I wanted to ask. Again, it belonged to a lot of people with different questions on different issues. [LB367]

SENATOR ERDMAN: Thank you, Senator White, and I'll concur with half of that, and I believe I'll be supporting Senator Friend's amendment that he'll be offering to the body dealing with the estate tax. I'm not trying to put you on the spot, Senator White. I'm just trying to understand what you presented to us. [LB367]

SENATOR McDONALD: One minute. [LB367]

SENATOR ERDMAN: As I read the study, and specifically the page you pointed to, this plan would reduce the state surplus to cut property taxes for Nebraska homeowners by \$500 each year. That is exactly your plan, and this is my time, and you've filibustered enough, and we'll have the opportunity to further delay the discussion. But I just want to understand how we've gotten here, and I'm not making any judgments at this point. I'm just seeking clarification as to how this poll was done, as a basis for beginning the discussion on the policy decisions that you would have, which candidly aren't before us at this point, but is a precursor to that future discussion. Thank you, Madam President. [LB367]

SENATOR McDONALD: Thank you, Senator Erdman. Senator Harms. [LB367]

SENATOR HARMS: Madam President and colleagues, thank you very much. I just wanted to talk to you a little bit about the issue we have before us. As I went through my district and went door-to-door, just like the rest of you did, it was basically about property tax. But what I think we have to understand is that Nebraska does not...Nebraska has not gone through any kind of planning process for the future. If we're going to have true tax cuts, you've got to decide what you want to give up. This is a piece of Band-Aid legislation for a short period of time. And my question to you is, what is it that you would like as senators, as a body, that you're willing to give up? Let me help you. Do you have too many counties? Do you have too many public schools?

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Should we streamline government? Well, you know what? I can't answer those questions, because we don't know as a state where we want to go. We do not have a plan for the state. We don't have a plan for the state for five years. If we knew what we wanted the state to become, we put the planning process together, then we can pursue permanent tax cuts. I think people are going to be very unhappy with us when they discover this is simply a transfer. This is a piece of Band-Aid legislation that will give us relief for two years. That's not what people told me when I went door-to-door. They want permanent cuts, and these are tough questions that we have to decide as a body. Until we're willing to do this, we'll have this debate forever. I can remember 10, 15 years ago, when Governor Orr was here, and they did the Syracuse Tax Study. They had the document right there to say to us, this is an opportunity for you to use. This is an opportunity for you to start long-term planning. Sure, there was things in there that people didn't like and didn't want. But it was a move in the right direction. And you know what? We still refer back to that study. But very little was done, and now we're back again, having the same discussion. And I would urge you as senators to realize and to understand that Nebraska has to go through a good, sound planning process. If you want to streamline government, you've got to know where you want to go. If you want to cut your taxes, you've got to understand what you want to give up. And until we're willing to accept that, we will have this discussion, we will have this debate, and it will just be short term. And I think that's a tragedy for the state. I don't think that's what people want. I don't think that's what we should be doing, and I think we need to look at this differently, we need to design this differently for the future. I know we can't do this now, but I think in the long haul here, we need to decide what we're going to do. We need to decide what kind of research we want. We need to decide what this state is to be. What do you want it to be? What is our future? That is what's at stake here, and I would just urge you to give that some thought, colleagues, because I think that's at the heart of the issue that we're going to address in the next several days. Thank you, Madam President. [LB367]

SENATOR McDONALD: Thank you, Senator Harms. Senator Raikes. [LB367]

SENATOR RAIKES: Thank you, Madam President, members of the Legislature. I think you can tell that we had an exciting discussion in Revenue, at least on times, and I think it was actually a very enlightening discussion, and hopefully that will continue as we work through this here on the floor. I would just reveal my biases at this point on what we should do about the general issue of tax relief, and in particular, property tax relief. First off, I would agree with the point that Senator White and several others have made, that property tax relief is a high-priority item among constituents and probably everybody in the state. But second, I would emphasize that the money we use to implement property tax relief should be done as...or should be used as efficiently and equitably as possible. Efficiently means you direct it to those places where people are most deserving of property tax relief, in terms of supporting services we need to provide, and efficient goes right along with that. We need to be concerned at the same

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time about improved state policy or bolstering our state policy where we can. One guide on that is how we rank compared to other states, and for example, we have a much higher burden--local burden, property tax burden--in the support of K-12 schools than do other states. We rank clearly in the bottom five or eight states among the nation. Finally, in considering property tax relief issues, we need to focus on what is likely to come down the road, and Senator Janssen mentioned that. The next time we run into a budget crunch or, I should say, you run into a budget crunch, where will you go to raise the necessary funds? I surmise that where we've gone in the past is to the school levy and also to the sales tax rate. But right now we're talking about property tax relief, and my notion about property tax relief, again, revealing my bias, that it makes most sense for us to target that relief to the reduction of the school levy, although I think certainly the property tax relief proposal that's a part of this division also is worthy. I will tell you that I have real trouble understanding how an income tax credit for someone who owns a home is property tax relief. There is nothing done to reduce any property tax levy. That all remains the same. Keep in mind that we, as a state, partner with local subdivisions--schools, counties, cities--to provide needed services. Part of our deal in that partnership is, you need to put up money, you need to be a financial contributor, along with the state, in order for that service to be provided. In exchange for your contribution there is local control and local direction and so on. But it is a partnership. It makes good sense to me to, I think as we've done, structure an aid formula to those local subdivisions, that considers efficiency and equity, and then when we have the opportunity at the state level to provide more state funding so that there can be less local funding, that's what we ought to do. That's a part of this package. It's not certainly the only part or even the major part, but it is an important part. In addition to that, we have the property tax relief program, which I think is also a good program. I would fault it compared to a drop in the school levy, in that... [LB367]

SENATOR McDONALD: One minute. [LB367]

SENATOR RAIKES: ...it does not target relief in the same way that a drop in the school levy does. But nonetheless, it does result in a lower property tax burden, when all is said and done, for every citizen. It is not, we're going to give you a tax credit someplace else and then hope you will go down to the school board meeting or wherever it is and complain about property taxes. It is, in fact, a direct, measurable relief to a property tax payer, which I think is very important that we stick with in this sort of a proposal. So, I support what the committee has done, especially the school levy drop, but also the property tax credit program. Thank you. [LB367]

SENATOR McDONALD: Thank you, Senator Raikes. (Visitors introduced.) Senator Chambers. [LB367]

SENATOR CHAMBERS: Thank you, Madam President and seat mate. I would like, if I may, to ask Senator Janssen a question or two. [LB367]

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SENATOR McDONALD: Senator Janssen, would you yield to Senator Chambers?  
[LB367]

SENATOR JANSSEN: Certainly. [LB367]

SENATOR CHAMBERS: Senator Janssen, by way of introduction first, Senator Erdman said it's time to play ball. I think it's time to play around, and that's what's happening so far, just kind of sparring, for people to lay out their territory. But is there...have you...you've heard of the Temptations, haven't you, the singing group? [LB367]

SENATOR JANSSEN: Yes. [LB367]

SENATOR CHAMBERS: And you've done a bit of singing yourself, haven't you?  
[LB367]

SENATOR JANSSEN: A little bit. [LB367]

SENATOR CHAMBERS: Do you remember hearing them sing a song called, "Papa Was a Rolling Stone?" It said, "Wherever he laid his hat was his home, and when he died all he left us was alone." Had you heard that song? [LB367]

SENATOR JANSSEN: Yes, I believe so. [LB367]

SENATOR CHAMBERS: Okay. [LB367]

SENATOR JANSSEN: I would...if you could sing it to me, I could probably remember it.  
[LB367]

SENATOR CHAMBERS: Well, I think...I don't want to clear the Chamber at this point. (Laughter) The youngsters were asking their mother about these various things they heard, and the refrain was, "Mama, we're depending on you to tell us the truth." So I want you to tell me the truth this morning. Will Rogers, first of all, said, I don't know anything, or I only know what I read in the newspaper. I read something in the newspaper about a couple making...having a house, or earning \$75,000, getting a break of about \$400. Is there something like that in the bill? [LB367]

SENATOR JANSSEN: Well, there would be a credit on your property tax, yes. [LB367]

SENATOR CHAMBERS: About \$400? [LB367]

SENATOR JANSSEN: No. No, no...no, it wouldn't. [LB367]

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SENATOR CHAMBERS: Well, what is that referring to? Because I read it in the paper. [LB367]

SENATOR JANSSEN: No, there wouldn't be a...that large of a credit. [LB367]

SENATOR CHAMBERS: Well, maybe if I add something else, because maybe it's not the credit. It said that the single person living in an apartment making \$25,000 would get less than \$2. Does that ring a bell with you? [LB367]

SENATOR JANSSEN: No, it doesn't. [LB367]

SENATOR CHAMBERS: Okay, well, we'll get to that after awhile. Thank you, Senator Schimek. Next time I speak I'll be able to adjust this and get to this, because there's something else I want to deal with. Oh. Married couples who own a home are winners. Single people living in apartments are losers. A single person earning \$25,000 and living in an apartment will save enough from tax cuts to buy a couple of candy bars--less than \$2. A couple with two children, earning \$75,000 a year, living in a home valued at \$140,000, will save almost \$400 a year. Does that ring a bell with you? [LB367]

SENATOR JANSSEN: I'm not...what's the source there, Senator? [LB367]

SENATOR CHAMBERS: Okay. [LB367]

SENATOR JANSSEN: I don't...I'm not following you. [LB367]

SENATOR CHAMBERS: Okay. Well, that's all I'll ask you. Thank you. I'm a stickler for language. It bothers me when people say "nye-ther." Senator White said "nye-ther." I cringed. I was shaken all over from head to toe. "I before E except after C, or when sounded like A as in neighbor and weigh." How in the world is this man, who has a degree--and he went to a Catholic university too--going to pronounce the word, which is spelled n-e-i-t-h-e-r, how is he going to pronounce that "nye-ther," when the rule says I before E except after C? [LB367]

SENATOR McDONALD: One minute. [LB367]

SENATOR CHAMBERS: So if you have E before I, it should be pronounced like A. He shouldn't be saying "nye-ther." He should be saying "nay-ther," shouldn't he, as in neighbor? N-e-i-g-h; if that's "nay," then n-e-i-t-h-e-r is "nay-ther." What's he doing coming here talking about "nye-ther?" Then people like me who were educated at OPS and don't know much of anything, pronounce it "nee-ther." So how do we get "nee-ther" and "nye-ther," when it should be "nay-ther" and "ay-ther?" I just thought I'd throw that in for your consideration. Thank you, Madam President. [LB367]

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SENATOR McDONALD: Thank you, Senator Chambers. Senator White. [LB367]

SENATOR WHITE: Thank you, Madam President. One of the things that we will be struggling with as we go through here, as Senator Raikes says, is what is property tax relief? What I would propose to you is, if we look at history and the constitution, we can get some guidance. First of all, property taxes are levied and set, not by us, but by the various spending authorities that we've created or the constitution has created--counties, cities, school boards, NRDs, libraries, community colleges. That plethora of spending entities, they actually levy property taxes. We don't set or control them, but we've tried. Historically, what Senator Raikes did not describe, perhaps as well as should have been described, is that historically, over and over again, we've tried spending limits, we've tried levy caps. We've tried different mechanisms to control those spendings on the local levels, and we've done that over decades, and we have failed miserably. What is at issue here is whether we're going to repeat the same efforts in the same way, that haven't worked--and the fact that they haven't worked is apparent from the poll results--or if we're going to try something different. And unlike Senator Raikes, and unlike my friend Senator Friend, I believe this is profoundly a chance to achieve true property tax reform. How? By the radical notion that we're going to trust the democratic process. Rather than stuffing money in spending bills--which we take money, we put it into the accounts of these entities so that they don't have to account for their local constituents on how they got the money or how they spend it--we return it directly to their constituents. We give the money back to the taxpayer. Where, as Senator Fulton asked me just now, is the tax relief in that? In the most profound and realistic way possible. Those spending entities, whether a community college or a library now must, instead of turning to us for more money--which is what is happening here--will have to turn to their constituents, to the people, to the voters. And the voters will have the money. We will have returned it very efficiently, very cheaply, directly to their communities. The money will have been returned, fairly across the state. Now they have to go and make the case for that money. That is the first control of spending that the framers of the constitution put in place. You have to go to the governed and get their consent to raise taxes. That has been a long-time mistake, a theoretical mistake, on how we've structured state government, and that, in my opinion, is why we face the tax crisis we do on property taxes. We don't make those who spend the money accountable to their own local taxing base. We hide that accountability. We enable them to spend more money than they can fairly justify raising. Until we correct that fundamental disconnect, we will not correct the crisis we're in. I liken it to giving your credit card to your child. The fun of spending is not connected with the pain of paying, and any time you disconnect that, you create a crisis. And until that is corrected, again, you will not have fiscal responsibility. Now is this property tax relief, Senator Friend? Yes. Is it a hoax? Is it unfair? Is it some kind of a trick? I submit to you it is not. [LB367]

SENATOR McDONALD: One minute. [LB367]

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SENATOR WHITE: And the proof of that is in the rawest, most elemental method possible under this argument, and under this theory. The voters will get \$500 in their pocket, Senator Friend, and as they spend that, they can celebrate the joke, because the money will be back in their hands to do with as they see fit. Under the other proposals, they never see the money. That, to me, is profound property tax relief. Thank you, Madam President. [LB367]

SENATOR McDONALD: Thank you, Senator White. We have Senator Fulton, followed by Stuthman, Friend, Lathrop, Schimek, and Langemeier. Senator Fulton. [LB367]

SENATOR FULTON: Thank you, Madam President, members of the Legislature. The Huskers are going to win tonight. That's my prediction. I thought I'd get that in there for Senator Erdman. Would...firstly, would Senator Janssen yield to a question? [LB367]

SENATOR McDONALD: Senator Janssen, will you yield to a question from Senator Fulton? [LB367]

SENATOR JANSSEN: Yes. [LB367]

SENATOR FULTON: Senator Janssen, I'm speaking to the first division of the amendment, AM970, and I think I'm understanding this, but I'd like to have some clarification of the math behind the property tax relief package here. In subsection (1)...oh, I'm sorry, Section 4, subsection (1); it's page 1, line 22, I think, of the division, the amounts that will be disbursed to an individual or on behalf of an individual is equal to the individual's property tax valuation divided by the total property tax valuation in the county. Is that correct? [LB367]

SENATOR JANSSEN: I believe so, yeah. [LB367]

SENATOR FULTON: Okay, so in that subsection we're talking about the county level, and so that's with specificity toward who's actually going to be...the individuals receiving the tax relief package. Then in subsection (4)--and just clarifying here, from what I understand--the amount that will be allocated to the counties will be equal to the total amount of property valuation in the county, divided by the total in the state. [LB367]

SENATOR JANSSEN: Yeah, correct. [LB367]

SENATOR FULTON: Okay. Then I...what I'm not fully understanding--I think it's explained in the bill; I'm just not getting my brain around it--what happens to those that have a homestead exemption? How does that...if we're setting up ratios for...at the county level and at the state level, which I understand, how does the ratio take into account those who have a homestead exemption? [LB367]

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SENATOR JANSSEN: If there is not sufficient property there, if there's no taxes being paid on that, that portion returns back to the fund. [LB367]

SENATOR FULTON: Okay, so that, that's actually... [LB367]

SENATOR JANSSEN: On a homestead exemption they're paying no taxes, so that portion would stay in the fund. [LB367]

SENATOR FULTON: Okay. So that would be...then that would be taken into account at the individual level, is that correct? [LB367]

SENATOR JANSSEN: Right, um-hum. [LB367]

SENATOR FULTON: On the individual return. Okay, thank you. I understand that. That clarifies. I'd like to dovetail a little bit on Senator Friend's statements. I'm not, per se...obviously, I'm not against property tax relief. I think we need to have property tax relief. The mechanism by which it comes, the mechanism by which it finds its way to the people, is what I have a concern of. Earlier this week I read in the newspaper that there was a hearing in the Lincoln Public Schools about the budget. As far as property taxes go, the schools are the ones who levy the most--in terms of dollars--the most dollars having to do with property taxes. So there's a budget hearing in the Lincoln Public Schools, and my understanding is that there wasn't a single person to speak to that budget from the public. I'm partly guilty. I didn't show up. I was probably here with my friend, Senator Engel, in the Appropriations Committee. But no one showed up to that. That's a concern, because I'll tell you, the best way to get property tax relief at the local level is to control spending at the local level. Property taxes go toward local taxing authorities which spend at the local level, and so the local budget is the most direct way to control the local property tax. [LB367]

SENATOR McDONALD: One minute. [LB367]

SENATOR FULTON: Now I don't know how to get...it's taken us a while to get there, I guess. I don't know how to get beyond it, but it seems that those who want property tax relief come to us, and to an extent, rightfully so. But that's something we need to bear in mind. If we are going to spend money with the idea that we will lower property taxes, then we better make it a point to make sure that, indeed, those property taxes get lowered, because I can tell you historically what has happened. We...the Legislature, I should say--I wasn't here--but the Legislature has spent billions of dollars in local aid, with the idea that that will lower property taxes. What has happened to property taxes over the course of the past couple decades? They have increased. I don't recall when they haven't. And so if spending money is to lower property taxes, it hasn't worked historically, or if it has, it needs to be quantified in a different way. And so I bring that to this discussion because we need to bear in mind, property taxes are best controlled by

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local spending. [LB367]

SENATOR McDONALD: Time. [LB367]

SENATOR FULTON: Thank you, Madam President. [LB367]

SENATOR McDONALD: Senator Stuthman. [LB367]

SENATOR STUTHMAN: Thank you, Madam President, members of the body. I've been listening to the discussion and the debate, and I'm really, really seriously concerned about the direction that this debate is going. And Senator White had that survey. People are concerned about property taxes. Do we have the control over property taxes as a legislative body? Very little control do we have. Property taxes are assessed locally, collected locally, and spent locally. That's the people that they should go to when they have a concern about their property taxes being too high. School boards, county officials, the NRDs--those are the ones where you can have an effect on your property taxes. How can you have an effect on property taxes? By going to these local communities, to your county boards, and telling them what service you are willing to give up, what service is not needed; not telling them, cut that person's service, but don't cut mine. You've got to be willing to give up something. You know, there's always the problem with health costs for counties, county employees, the health costs. What do they go up? Eleven, 12, 17 percent a year? Where does that money come from? It comes from property owners, that's where it comes from. The only impact I feel that we can do as a legislative body is assist communities, counties, schools, with aid to those bodies. That's the only impact that we can have on property taxes, by assistance to them. We have the school aid formula. We've got assistance to counties. We've got assistance to municipalities. We help them out that way. If we would not give anything to them, then your property taxes would really increase. Property taxes very seldom ever do go down. Why don't they go down? Because salaries increase, healthcare costs increase, everything increases, you want more services, fuel costs are higher. It just continually goes up. I was concerned with Senator White with that survey, when the people said, I'm concerned about property taxes. Sales tax and income tax, I'm really not too much concerned about that. But was the question asked? Was it asked, do they know who's in control of property taxes? Who are the people that are in control? And I will bet you, very few people would even know who assesses those, who spends them, who collects them. They all point to the legislative body, that we should be the ones to pass that magic wand over them and say, your taxes are going to go down. The only way they're going to go down is if you're willing to give up some service, you're willing to have less services. Maybe you want to cut out, you know, some library services for the county. Maybe you want to cut out all of the law enforcement in the county. Those are ways that you can cut it. But do people want to give up that service? No, they don't. But the main issue is, they get their tax statement and they see the bottom line. The majority of that is to the schools. Do we want to continue to educate the people? I do. I'm not

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concerned. I think we got to keep that in mind. So I think... [LB367]

SENATOR McDONALD: One minute. [LB367]

SENATOR STUTHMAN: ...the real issue is we're debating the amendment on AM921, of switching that amount of dollars, and I think that's the appropriate thing to do. With that, let's keep in mind who is in control of property taxes. Thank you. [LB367]

SENATOR McDONALD: Thank you, Senator Stuthman. Senator Friend, and this is your third time. [LB367]

SENATOR FRIEND: Thank you, Madam President. Members of the Legislature, AM921 and AM970, the piece of AM970 that deals with this subject matter, is existing public policy. It's just changing the numbers, okay? It's changing the number. Along with Johanns' idea, Governor Johanns--I don't know whose it was--the Property Tax Credit Cash Fund is existing public policy. I just happened not to think it's a very good idea, or I just happened to dislike it, in general, overall. The underlying committee amendment, \$100 million into this fund for transfer back to the people for property tax relief, right? AM921 changes it to \$20 million--it might just be a placeholder; I don't really know--for property tax relief. You know what? If somebody walked up to me with a baseball bat and hit me on the back of the head as hard as they could, and when I woke up the guy hands me an ice cream cone and says, hey, sorry about that. Twenty minutes later, a guy walks up with a two-by-four with a nail in it, hits me in the back of the head. If I wake up, he hands me a Snickers bar and says, sorry about that--this is the reward you get. This is what this feels like. This is property...this is what a Legislature handing out property tax relief feels like. It's painful, it's almost ridiculous, it's specious, and then when you're done, you get that Snickers bar, and when it's gone, what do you get? Snickers satisfies, right? Hand me \$500. I'll tell you what. I've got a wife and four kids. That's gone two days from now--two days. You hand somebody income tax relief, good solid income tax relief, and re-setup, redo our sales tax code, that'll help my kids when they're older. They'll be able to get a job in Omaha or Lincoln or Grand Island or Nickerson. They might be...they might even be able to get a job in Wilber. So here's the way I look at it. We have existing public policy that deals with something that we created and felt like it was a halfway decent idea, historically, four or five years ago, six years ago. I'm going to vote for AM921. And if a property owner...and by the way, it's the only person that's going to get relief here, is the property owner, because these aren't property tax cuts. These are income tax shifts, correct? We're taking income tax and we're saying, here's the revenue. We got a little extra. Let's make sure we go ahead and give property tax relief. Senator Raikes is right. The only control we have is to cap it to a certain degree, right? I'm going to vote for the amendment because it's only \$20 million. Somebody throws one up to erase it--I may even do that--if somebody throws one up to erase it, I might even be for that, because I already told you I don't like getting hit with bats, and I don't like getting hit with a two-by-four with a nail in it, especially when I'm

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going to get a reward that is, as I mentioned, in my view, fairly in name. If we can be honest with our voters, if we can be honest with our constituents, if we can be honest with the people of Nebraska,... [LB367]

SENATOR McDONALD: One minute. [LB367]

SENATOR FRIEND: ...if we can do that--I think we can--we can offer real tax relief. But this section in this division that we're talking about right now, it's superfluous. This is "feel good." This will allow me to put a newsletter together after this session is over and say, you know what? I provided property tax relief for you. And you know what they're going to do? They're going to go, good job, Mike, and pat me on the back. They're going to hand me that ice cream cone, and I'm going to laugh all the way back down here next session, right? I don't think it's worth it. I'm going to vote for AM921 because it's going to hurt a little less. Thank you, Madam President. [LB367]

SENATOR McDONALD: Thank you, Senator Friend. Senator Lathrop, followed by Schimek, Raikes, Carlson, Karpisek, and others. [LB367]

SENATOR LATHROP: Thank you, Madam President and colleagues. Oh, how quickly we forget. You know, half of the class...this freshman class just got done pounding on doors, just got done pounding on doors, with the exception of Senator Fulton. When we talked, about ten days into the session, people jumped up and said, yep, property tax, that's what people want. That's what the folks want, when I knocked on their doors, but they don't have a lobby. There is nobody here to speak for the people who want property tax relief. There are businesses that would like credits. My district, District 12, we call it the Ralston district; Ralston is a good part of my district, and the rest of it is a part of Millard, and I want to tell you what my district is like, and then I want to tell you about a story when I was knocking on doors. The typical home in my district, the families pay \$3,000 in property tax relief...or property tax. And when I knocked on the doors in that district--and I knocked on them four times, and I beg to differ with Senator Friend, it is not easy--I knocked on the doors and asked them, what's on your mind? They said property tax relief. Senator, I want property tax relief. I want property tax relief. You've got to give me some relief from this. These are people who work hard, and we're throwing them under the bus with these proposals. We are ignoring what they told us. I don't know why, when we raised our hand and took a oath, that now we know more than they do. They sent us down here for property tax relief. Senator White has a proposal that will give each homeowner \$500; that's what they want. They don't have a lobby. Let me tell you about a guy that I spoke to who made an impression on me when I was knocking on doors. I had been knocking on doors maybe two weeks. That was my campaign. I knocked on a lot of doors in the 12th District. A guy named Joe--Joe invited me into his house, he sat down in his chair. He lives alone in Ralston. He is a widower. His children have moved out. It is good that he would stay in his home. He said, and he was nearly in tears, he said, Mr. Lathrop, if property taxes go up one more time, I have

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to move out of the family home. We have people in this state that sent you down here to provide them with property tax relief who are making a decision every day about whether to buy groceries or buy medication. We have working families--working families--that will spend that \$500. They'll spend it in a second, because they have pent-up needs that a decent, reliable, and meaningful property tax plan will provide them. There is no lobby for these folks. We have behind us the Chamber, the bankers, all...it's very important that we hear what they have to say. But in the end, we were sent here by the people to represent the people, and they want property tax relief. And we shouldn't forget where we came from, we shouldn't forget the promise we made, and we shouldn't act like our promise to provide them property tax relief was done with a wink and a nod. We should not forget those people when we get down here to vote on property tax relief. We have seen a survey this morning. [LB367]

SENATOR McDONALD: One minute. [LB367]

SENATOR LATHROP: We have seen a survey done this morning that confirms what you know, what each one of us know that talked to the people in our district. People want that \$500, and they also want us to take care of the estate tax problem; not raise the exemption, but eliminate it. We have an opportunity with the White amendment, and we'll hear that offered shortly, to provide the people what they sent us down here for. Is it going to make everybody behind the glass happy? No. But it's going to make the people that voted for you happy, and we're down here to represent them. Thank you. [LB367]

SENATOR McDONALD: Thank you, Senator Lathrop. Senator Schimek. [LB367]

SENATOR SCHIMEK: Yes, thank you, Madam President and members. You know, almost everywhere I go any more, whether it's a reception or a dinner or a breakfast, people will ask, what's it like down there in the Legislature this year with all those new senators? And I tell them that we have a lot of really astute, well-prepared, eager new senators, who are doing their homework, who are taking these issues seriously. And I really mean that. I think that that's true. I often add the only thing missing is experience, and they're going to be more experienced as time goes along. I prefaced what I want to say, because I want to talk about Senator Harms' remarks, and I thought for a brand-new senator, his remarks were so knowledgeable and so good, and I would like to follow up with them just a little bit, because if we're going to do tax breaks, then I think we need to talk about how sustainable they are and what they are. And Senator Harms is absolutely right that we ought to do that study, and we ought to know what kinds of programs we can eliminate if we're going to do it, because I remember so well on different occasions in this Legislature over the last 20 years, where we would give the citizens a tax break. Two years later, the economic situation would go downhill, and we would be back here facing substantial cuts in programs or increases in taxes. And we do that over and over again, and we always say on the floor of this Legislature, never

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again. We're not going to do this again. We're going to try to sustain things as they are, so that we don't have to do this yo-yo effect on the people of this state. Now, I know the political reality, and I know that there is great pressure for tax cuts this year, and I'm willing to consider those if we need to. But I think that...I didn't have to be a candidate out there going door-to-door this year. I've known for several years, if not more, that property taxes are the taxes that people are so upset about, and if we don't do something this year that's noticeable to them, they're not going to have much faith in what we can do down here. With all due respect, I don't think most people are affected dramatically by estate taxes and notice them that much. But they notice property taxes. The newspaper article that Senator Chambers referenced in his remarks was out of the Lincoln Journal Star this morning, and what it said--and I assume that these figures are thoroughly checked--but what it said was that if you are a married couple filing jointly with two children,... [LB367]

SENATOR McDONALD: One minute. [LB367]

SENATOR SCHIMEK: ...and you have a house worth...or you're earning \$75,000 a year, that you will get a \$282 tax reduction, and the home that you own will be close to maybe another \$200. So you're going to get a property tax...a tax break of around \$400. It also said that the person who is a single filer and doesn't have any property is going to get about a \$2 reduction. So we've got to think about those inconsistencies. I don't think this proposal that we have before us today gives a noticeable tax break to people. It's spread all over the field, and I don't think they're going to thank us for it, necessarily,... [LB367]

SENATOR McDONALD: Time. [LB367]

SENATOR SCHIMEK: ...because I don't think it's enough to make them notice. I'm going to turn my light on again. Thank you, Madam President. [LB367]

SENATOR McDONALD: Thank you, Senator Schimek. (Visitors introduced.) Senator Raikes. [LB367]

SENATOR RAIKES: Thank you, Madam President, members of the Legislature. Continuing on talking about how best to do property tax relief, I want to correct maybe some impressions that have been presented, that somehow the local government entities that we participate with, cooperate with, to provide service, government services at the local level, are out of control, that they are...they don't have to be accountable for the money they spend, and as you think about it a little bit, you know that that simply isn't the case. We over a period of a number of years have developed and modified, improved levy lids, budget lids, and various other controls on what these entities do. Plus, you certainly got the democratic process in place, in that all of these entities have governing boards which are elected locally. So the argument that somehow there is no

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control, that spending goes wild, that there's nothing we can do about it, simply doesn't hold water. If you look at property tax, real estate tax history in Nebraska, certainly, like a lot of other places, you're going to find increases that have occurred, which a lot of people consider unacceptable, and certainly, the general level right now, people consider unacceptably high. But there's also some things to look at in that, that if you consider the property tax burden, you break it into voter-approved bonds, new construction, versus the rest, that at least on the part that is not subject to control by individual taxpayers, there's a good argument that the lids, budget lids, and levy lids, and other controls that we've put in place have, in fact, worked. I continue to urge you to think about this and to realize that the best way for us as a state to provide property tax relief is to make sure that the money that goes out does, in fact, reduce property taxes, that it doesn't reduce some other tax, provide some spending money, in hopes that someone will realize at some point, well gee, I could have used this to pay my property tax bill, but that was then and this is now, and I didn't do that. It needs to reduce property taxes. It needs to do it in a fair and equitable manner and an efficient manner, to where the property taxes that are the most burdensome are the ones that get relief first and most. Finally, it needs to be consistent with good state policy, and it needs to be sustainable. The levy drop, in my opinion, is probably the single element here that meets all of those criteria, so I urge your support for that provision. Thank you. [LB367]

SENATOR McDONALD: Thank you, Senator Raikes. Senator Carlson. [LB367]

SENATOR CARLSON: Madam President and members of the Legislature, I'm going to make some comments that are kind of an extension of Senator Raikes', and in a different light perhaps, but I think that we as a Legislature must be very careful when we say we have no control of local property taxes. We have a significant say in one important area, and that's education. Senator Harms brought out a great point, that we can't really determine what we need to do at the present time until we've determined where we want to be next year, five years, ten years from now. And so I'm going to bring forth a little novel idea that has to do with taxes. I think we need a change in state statute. I want us to take a look at how we fund education. Our state formula directly affects local property taxes. What if we had, with a change in state statute, a statewide, common property tax levy for public education that would fund not 70 percent, not 60 percent, not 50 percent, not 40 percent, but 34 percent of the cost of education. I think that would cause us to do what Senator Harms says we need to do, and that's make some tough decisions and figure out where we want to be, where we want to go. Where do we want to be in five years? Where do we want to be in ten years? If we had a statewide property tax levy for education...I don't want to take away local control, but we fund that percent of education and the rest of it has to come from income and sales taxes, and then it's paid back to local districts in terms of the number of students, and local districts could still have the prerogative of levying a local property tax to supplement for other things that they might want to do in education. As Senator Friend said, that what we're debating doesn't really address good public policy, we need an

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overhaul of our tax structure. But I refer back to Senator Harms who said, where do we want to go? I'm going to disagree with Senator Friend about sales tax. Why would we reduce a tax that very few complain about? Why would we let those who come to our state, pass through our state, spend money in our state, not help us with needed revenue? We don't want to take that privilege away from visitors that come to Nebraska. We may want to increase the sales tax. That's a tax that we pay for as we go and then forget about--very, very little complaint about state sales tax. This is interesting debate, interesting information, and I look forward to the balance of it. Thank you. [LB367]

SENATOR McDONALD: Thank you, Senator Carlson. Mr. Clerk, are there any messages, reports or announcements?

CLERK: Madam President, I have neither messages, reports, nor announcements. I do have a priority motion. Senator Carlson would move to recess until 1:30 p.m.

SENATOR McDONALD: All in favor say aye. We are recessed till 1:30 p.m.

RECESS

SENATOR FRIEND PRESIDING

SENATOR FRIEND: Good afternoon, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber. The afternoon session is about to reconvene. Senators, please record your presence. Senators, please record your presence. Senators, please check in. Record please, Mr. Clerk.

CLERK: I have a quorum present, Mr. President.

SENATOR FRIEND: Thank you. Members, we left into recess this morning. Mr. Clerk, we were on the committee amendments, AM970. Mr. Clerk, first item, please, on the agenda. [LB367]

CLERK: Mr. President, LB367, discussed this morning. Committee amendments were offered. Pursuant to a division request, they were divided. The Legislature was considering the first component, AM970, referred to as the property tax division. Senator Janssen had moved to amend that component with AM921, Mr. President. That's what's pending. [LB367]

SENATOR FRIEND: Senator Janssen, can you give us a brief overview of the...overview of AM921? [LB367]

SENATOR JANSSEN: Yes, I can. AM921 calls for a small Cash Reserve Fund transfer the first year. The first division of the committee amendments call for \$100 million to be

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transferred from the General Fund to the newly created Property Tax Credit Cash Fund to pay for property tax credits in fiscal years '07 and '08. AM921 calls for an \$80 million transfer, the General Fund, and \$20 million from the Cash Reserve Fund. Is that good enough, Mr. President? [LB367]

SENATOR FRIEND: Very good, Senator Janssen. Thank you. [LB367]

SENATOR JANSSEN: Thank you. [LB367]

SENATOR FRIEND: Members of the Legislature, then we return to discussion of AM921, the amendment to the committee amendments, the first division of AM970. Senators to speak: Karpisek, Wightman, White, Langemeier, Erdman, Wallman, and others. Senator Karpisek. [LB367]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. My thoughts are still from before lunch. And I would have probably just let it go, but since I waited in the queue so long, I thought I'd start up where we left off. I would like to just put in a couple of little bites on Senator Stuthman's argument that the Legislature does not have anything to do with property taxes. Senator Stuthman was on a county board, and I know that he knows a lot about that, and he's also a very good legislator, but I have to disagree a little bit. Senator Carlson stole my thunder a little bit before lunch, because I was going to talk about education also. State aid to schools. If we cut the state aid to schools, either the schools have to cut programs, or they have to increase property taxes. My problem in my district is I have five unequalized districts, school districts in my district. Fully funding the state aid to school formula will probably not help them at all. And if we drop from a \$1.05 to \$1.00 levy, that will only increase their problems. If we do work on some sort of a state aid to school funding and give them 100 percent funding, I would like to push that we would get all the schools equalized, so they could all benefit. Also, many things come through the Legislature, such as unfunded mandates. As my tenure as mayor, we had a lead-copper problem. The problem came from the EPA. We decided that we could not afford to do the lead-copper the way they wanted us to go about solving the problem, so the EPA told the state, either you make them do it, or we'll fine you. Did the state step up and tell them, tough? No, the state imposed that mandate on us. The state did help us meet those requirements and how to go about it, but they did not tell us where to get the money. Where did the money go? We had...or, where did it come from? We had to put it on services, property taxes, that sort of thing. The No Child Left Behind, again, not a state issue, but it passes through. Where do the schools come up with this money to do the things that they're told to do? Again, when I was mayor, I said, a lot of the things that we vote on or talk about, we don't have much control of. The federal government or the state government tells us how it's going to be done, but not how we're going to pay for it. We have lids on their earnings, lids on all of their property taxes, which is fine. We need to control property taxes. But to say that it is 100 percent all the locals' fault, I cannot agree with; 75 percent, maybe, Senator

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Stuthman. Thank you, Mr. President. [LB367]

SENATOR FRIEND: Thank you, Senator Karpisek. (Visitors introduced.) On with discussion. Senator Wightman. Senator Wightman, are you...we move on to Senator White. Senator White, you are recognized. [LB367]

SENATOR WHITE: Thank you, Mr. President. I'd like to talk to my fellow senators about one of the concepts that we've talked about, and that is what, if any, role the state has in property tax issues. What I think the Legislature needs to understand is, the constitution prohibits us from receiving or setting property tax rates. We cannot do that. To the extent we can do anything in property tax, all of them involve either spending or they involve doing what I propose, which is a refund using the income tax bases. We cannot, properly so, directly affect the actual property tax rates. I disagree with Senator Stuthman. I agree very much with Senator Karpisek, that does not put all the responsibility on the local entities for the amounts that we spend on property tax. For example, the constitution places the obligation to provide an appropriate education for K-1 through K-12, not on the counties, not on schools, but on the state. Nevertheless, we have, by force of history and precedent, pushed that obligation off to the local taxing authorities and required that they largely fund it. That is exactly what Senator Karpisek was referring to. Talk about an unfunded mandate. The constitutional obligation to educate is on us, on the Legislature, but the cost is overwhelmingly borne by local property taxes, and that is the biggest single component. How one can look at that and then conclude this is all local property tax fault for not controlling spending is not fair. Nevertheless, I tell you that until we make the local taxing authorities responsible for truth in budgeting, until we force them to talk to their constituents about the amount of money they're pulling out of the community, until we stop hiding the true costs of expenses and we start fairly describing what we're doing financially, we will not see fiscal responsibility, nor will you have an educated constituency that's going to recognize that you as state legislators may have done your job controlling spending at the state level. They will still hold you responsible, fairly or unfairly, for the spending done at the local level. The proposals of the committee on this matter do not help this. They make it worse, much worse. They tell us they're doing property tax relief, but really they're spending money. They tell us that this will result in savings to people at the local tax levels, but history tells us it's never worked. They tell us that we are being fiscally responsible and disciplined, but in fact, understand what you are doing, you are putting money in budgets of taxing and governmental entities that you have not reviewed and whose spending priorities you flat out may not agree with. Senator Raikes strongly supports this bill, and Senator Raikes is very knowledgeable, far more experienced than I. Nevertheless, this year, Senator Raikes has raised as a huge, major issue, as kind of the poster child of irresponsible spending, the amounts the Omaha Public Schools have spent on attorneys. Now, putting aside any kind of professional collegiality regarding my fellow lawyers making a living, as hard one as that may be, it's pretty ironic that we're talking about putting \$150 million, a large portion of which goes into school budgets,

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when Senator Raikes has raised as a poster child a waste of, I believe it's \$7 million to \$11 million of a budget, and that we're going to stick money right in there... [LB367]

SENATOR FRIEND: One minute. [LB367]

SENATOR WHITE: ...and say we've done our job. I do not think you can square any kind of reasonable promise that you may have made to your constituents about being good and careful stewards of state money with the plan as proposed. I do submit to you that we must control our own spending. But we also must trust the people to control the spending on the local areas. The best and most effective way to do that is to reject the committee's amendments and move forward with a proposal that directly returns money to the taxpayers. Thank you, Mr. President. [LB367]

SENATOR FRIEND: Thank you, Senator White. Senator Langemeier, you're recognized. [LB367]

SENATOR LANGEMEIER: Mr. President, members of the body, we need to keep this all in focus, as we look to this bill with \$100 million the first year and \$50 million the second year as a direct property tax credit on your tax statement. It's not a shift, it's not anything else. In the second year, the \$1.05 levy drop, that's what everybody is characterizing as a shift. And I truly would do that, too. And what that does is it takes local property taxes down. Yes, it puts more state aid in. I think long-term we have to remember is, is what puts the burden on our school system? It's people. It's not farm ground, it's not commercial buildings, and it's not a lot of other things. State aid takes state tax, income, sales tax, puts it back in the formula, which helps fund what puts the burden on the schools. And with that, I'd like to yield my time to Senator Janssen. [LB367]

SENATOR JANSSEN: Thank you,... [LB367]

SENATOR FRIEND: Senator Janssen, you have about four minutes. [LB367]

SENATOR JANSSEN: That will be adequate time. Thank you, Senator Langemeier. At this point, I would like to withdraw this amendment and refile on Select, if you would, please. [LB367]

SENATOR FRIEND: So ordered. The next amendment, Mr. Clerk. [LB367]

CLERK: Mr. President, the second amendment I have to this component of the committee amendments, Senator Janssen, AM934. (Legislative Journal page 1073.) [LB367]

SENATOR FRIEND: Senator Janssen, you are recognized to open on AM934. [LB367]

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SENATOR JANSSEN: Thank you, Senator Friend, members. AM934 is to correct a drafting error with regard to the second year of the tax credit. In one part of the amendment, it refers to the \$50 million for the taxable year 2008, and in another, it is for tax year after 2008. This amendment is needed to clarify that the \$50 million refers to the tax year of 2008. And I will bring this to vote, and I ask for your adoption of AM934. We do need this. [LB367]

SENATOR FRIEND: Thank you, Senator Janssen. (Visitors introduced.) On with discussion of AM934. Senator Gay, you are recognized. [LB367]

SENATOR GAY: Thank you, Mr. President. I'd rise to support the amendment, of course. But I just wanted to get out there; it seems like everyone else is. We're talking all so far this morning, and now into the afternoon. We're...I'm finding it quite interesting and actually quite refreshing that we're all discussing tax cuts and how much we all like them. And that's great, but the point that I wanted to make real quickly, Senator Karpisek mentioned, Senator Stuthman, many others in this room have some experience on local property taxes, and the one thing that we've got to remember--and I'm getting a little frustrated--but we...you know, we vote for these elected officials to do the spending. And how many times throughout...so far, have we wanted to support local decision making authority, and support your local officials to make good decisions? I still think voters are deciding what those policies are. Every time that we rise or come up during this session with a new spending proposal or a new program, who's going to implement those programs? Ninety percent of the time, I would argue, it will be your local officials doing that. So the only thing I would say is--we discuss this in debate on and on--who are we really...who's creating this mess? A lot of times, we're looking at two different proposals of how we're going to give property tax relief. The Revenue Committee has said that 55 percent of their program is property tax relief. It will be, if enacted, which I think it will be, by local officials. But as we continue this debate, keep in the back of our mind, not just today, but forward, those new programs we're going to dream up, those new programs that all sound great are going to cost somebody. And that's what we're doing. We're trickling all this down to these local officials who have to then implement these programs, which of course means they're going to get those local property tax dollars from our homes and our businesses and everywhere else. So I personally believe that the Revenue Committee is on the right track with this package. I don't think we should be discussing a...this is it, this is the best way to do it. I think we're coming to...maybe we will, we'll come to some kind of compromise, and we get a lot of different perspectives on how that should be done. I think a lot of hard work and effort went into that. But I guess this all or nothing approach that I think we're going...that we're kind of driving towards here, I don't agree with. I believe that we should continue to work, not just this session, but in coming sessions. This is a long-term problem that's built up, and it's going to take a little longer to solve it. So I think we need the persistence to keep with our controlling of our spending, and by doing that, we will help

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control these local property taxes. Thank you, Mr. President. [LB367]

SENATOR FRIEND: Thank you, Senator Gay. Senator Schimek, you're next and you're recognized. [LB367]

SENATOR SCHIMEK: Thank you, Mr. President and members. I turned my light back on because there were a few things that I left unsaid last time. And I'm not sure I have enough information to say all that I would like to say, but one of the things that occurs to me, and my memory is that Nebraska does not fund public schools as well as other states. And in fact, I think we're somewhere near the bottom of the barrel. We, I think, have in state law maybe even that we have to fund up to 45 percent of school budgets, and yet we fall far short of that. So maybe if we want to really do something about property tax relief, we have to get up to a higher level of funding from the state, which primarily comes out of income and sales taxes. But I just don't think that we can totally duck the blame about property taxes when we try to say that, oh, it's those school boards, or it's those city councils, or county boards that are not doing a good job. As Chair of the Government Committee for a number of years, we did a lot of study of interlocal agreements, of suggested consolidations, and what we found in some of those interim studies was that local subdivisions have done a lot in recent years to cut their expenditures and to cut their funding needs. And one might say, as I think Senator Raikes does, that they've gone too far perhaps with some of these interlocal agreements, because some of those interlocal agreements are offline as far as budgets are concerned. But I think that they've done a lot, so I don't think we can entirely lay the blame for high property taxes at the local level. I would like to mention that just recently in the paper in Lincoln they talked about a budget hearing for the Lincoln Public Schools, and you know what? It was well advertised, people knew about it; nobody showed up. Nobody. Now, part of this, many people like to complain about the expenditures of the school systems, for instance, and the fact they have all these facilities that are perhaps unnecessary. But where's the input? Where's the public involvement in some of these decisions? You know very well that elected officials do pay attention to their elected officials (sic), and their input is needed and it's heeded. So I just wanted to say that I don't know what I'm going to do, for sure, on this bill, but I do think...I still think property taxes are the problem, and I think our solution should address property taxes in a big way, and we should take some of the responsibility for the complaints of our constituents. Thank you, Mr. President. [LB367]

SENATOR FRIEND: Thank you, Senator Schimek. (Visitors introduced.) On with discussion. Senator McDonald, you're recognized. [LB367]

SENATOR McDONALD: Mr. President and members of the body, I've not been in this discussion concerning property taxes, but shortly after I came to the Legislature was a time when money was tight, and many things that were to our counties and cities were cut. Reimbursement to our prisoners in our counties, our state prisoners that have been

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housed in our counties, have never been reimbursed. And so a way for the counties to make up for that is to fund that through property taxes. We are not taking the responsibilities that this state should have by forcing our counties to use property taxes for a state issue. That's what I'm concerned about. We have not taken the aid to our cities and our counties fully funded the way they used to be before we cut them several years ago. And until we're ready to, at the state, to step up to that obligation, our property taxes have to fund that at the local level, and that is wrong. So one way to save on property taxes is for the state to step up to the plate and fund those properly. And until that happens, our property taxes continue to rise. So we need to make sure that we at the state fund the obligations that we put on our counties. And if we don't, there's no way of cutting property taxes for them. We don't fund our schools properly. They have to make up those dollars with property taxes. By giving someone \$500, to me, is no different than the time from the federal government we got \$200. You went out, you did something fun with it, but you really never saved it, never really came off your income taxes, because it was money you spent for something else. You spent the money, it was long gone; a week later, you forgot about it. It's not a true property tax savings. So what I would look at is taking the state dollars and funding the programs they need to be, and that will lower the property taxes, and that will be a continual and consistent lowering, not just something that's temporary. Thank you. [LB367]

SENATOR FRIEND: Thank you, Senator McDonald. Senator Raikes, you're next and recognized. [LB367]

SENATOR RAIKES: Thank you, Mr. President, members of the Legislature. I want to focus a little bit on the state's role in equalization, because I think that is a key element in what is involved in the Revenue Committee's proposal, and especially with regard to the school levy drop. I think most everyone would agree that if you have a school district in which there are a lot of kids and there's very little wealth, a poor district, so to speak, versus another district where there are maybe quite a few kids but an awful lot of wealth, that the latter district, the kids in the latter district don't deserve a better education just because their parents or neighbors and so on are rich. And similarly, the ones in the first district don't deserve a worse education just because their parents and neighbors aren't rich, are poor. It is the state's obligation to ensure that everybody is brought up to a level of funding for their education that is equitable. That is basically what we're trying to do with equalization in our state aid formula. In fact, I would argue to you that it makes the most sense, for whatever money that we can afford at the state level, to direct that, particularly in the area of property tax relief, toward improving equalization. And that is exactly what we do when we drop the levy. You've had...Senator Karpisek mentioned he's got some nonequalized school districts, and he brought up the point, well, gosh, wouldn't it be better if we had all the school districts equalized? I agree it would. You know how you do that? You drop the levy about 20 cents, and most every school district in the state would be equalized. We can't, at this point--I guess we could; it would probably be my preference--but we can't, at this point,

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go that far. But we can go in the right direction. And dropping the levy from \$1.05 to \$1.00 is in that right direction. Senator White makes the point that we put a tremendous burden on locals for supporting K-12 schools. Well, that's true. But then you don't go on and say, and we're going to leave it that way, we're not going to do anything about it. The next step is, we do put a tremendous burden on locals for funding schools, but let's do something about it. Let's lower the school levy so that we put more of that burden on the state and less on local school districts. It not only is effective property tax relief, it reaches out across the state to taxpayers generally, but it also advances that extremely important component of state policy that we invest the money so that we give everybody, regardless of their situation regarding wealth, that fundamental equal chance at a good education. Again, I support the levy drop. Thank you. [LB367]

SENATOR FRIEND: Thank you, Senator Raikes. Senator Langemeier, you are recognized. [LB367]

SENATOR LANGEMEIER: Mr. President, members of the body, I do support AM934. It is kind of a technical change for the...to clarify the \$50 million in the second year. And with that, I would ask for your support. Thank you. [LB367]

SENATOR FRIEND: Thank you, Senator Langemeier. Senator White, you are next and you are recognized. [LB367]

SENATOR WHITE: Thank you, Mr. President. I do not support this amendment, and I will explain, hopefully to your satisfaction, why. First of all, if we are going to do a tax cut, it should be a tax cut that is fairly available to all, and that is predictable, that each of us would know that if you vote for it, we're taking money from the General Fund, that the constituents in your district will get equal benefit from it. No one, no one can say that with regard to this. In the cases of where the districts are not equalized, you may get no benefit. In the cases where they are not equalized, you may drop it and they may demand...need and have the right to additional state aid. Therefore, the benefit is uncertain. You don't know how much this is going to cost you. Nor do you know who, if anybody, will really get the benefit. Beyond that, we have the historical problem, Senator Raikes repeats it again, which is, this will be effective tax relief. History has shown us it will not be. Now, there are those who'd say, well, this time we really, really, really, really mean it. We really, really, really, really meant it many times in the past. And I want to give you a perfect example of why we cannot guarantee that this mechanism will provide property tax relief. Senator Raikes has long railed against, and justly so, interlocal agreements. Interlocal agreements are being used as a vehicle to evade budgetary restraints, levy precedents, all manner of other problems. Folks, if we push the money into the budget and we pass the limits, they'll game the system. On such games are the fortunes of my brethren built. We look at laws, and then we figure ways around them. If, however, you put the money back in the hands of the taxpayer, the taxpayer actually has the money, the local communities have the money, they can

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afford to bear their burden that we have placed on them, and the local school boards, the local NRDs, the local counties and cities can make the case on why they need more money. That is, in fact, trusting the voters and the democratic system. This provision, however, does neither. Now, what Senator Raikes cannot tell you is how they will game the system, and we'll put more money, and they'll evade the limits, that he hopes will result ultimately, somehow, in some unknown amount of tax relief. Or we can simply give a set amount of money directly back to the voters. I urge you, especially with regard to this aspect, to look and figure out what, if any, of your constituents are the winners, and who are the big winners and who are the big losers. Note that this has the same problem. Ted Turner, 350,000 acres; Union Pacific, over \$800,000 in a tax break they didn't ask for and don't want. Now, the money is going to be distributed, and you will find a more rational and fair method of distribution in your average casino than we are going to see with this plan. No one can tell you how the chips will fall. That is not good legislation. Thank you, Mr. President. [LB367]

SENATOR FRIEND: Thank you, Senator White. Senator Avery, you're next and you're recognized. [LB367]

SENATOR AVERY: Thank you, Mr. President. I'm glad we are having this discussion of property taxes, because like many of you, when I was in the campaign, I did a lot of door-to-door. In fact, I knocked on more than 5,000 doors in two passes through the district, and I can tell you that I heard property taxes every day. And I know a lot of you experienced the same thing, and I've heard you say so on the floor. Senator White raised the issue of the limited ability of the state to reduce property taxes, and he enumerated some of the ways they could do it. He failed to mention, I believe, homestead exemptions. A homestead exemption, as you know, provides relief from property taxes by exempting all or a portion of the valuation of the homestead from taxation. The state of Nebraska reimburses the counties and other governmental subdivisions for the taxes lost due to the homestead exemption. We have three categories right now. I had a proposal that the Revenue Committee was not particularly fond of. But since this seems to be a good opportunity to share it with the rest of you, I didn't want to let this opportunity pass. What I proposed--and just think about it; we don't have to do it this year, but perhaps another opportunity will come--give every homeowner an exemption of 10 percent, this is a homestead exemption, of 10 percent of the average assessed value of a single-family residential property in their respective county. For example, in Lancaster County, the average home last year was assessed at \$147,750. So owners, homeowners in Lancaster County, if you had this exemption in place, would be able to exempt an additional \$14,775 from their property taxes on their residence. In Douglas County, residents would qualify for \$13,288; Sarpy County, \$15,322; in Box Butte County in the Panhandle, residents could additionally exempt \$6,345. Using this method, the 10 percent exemption has a progressive feature. In Lancaster County, where home values range from \$500 for a mobile home to \$1.5 million for some houses, all taxpayers would qualify at the same level, \$14,775. So a

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person who had a modest home would qualify for a larger exemption; a person with a very expensive home would qualify for a smaller exemption. That, to me, I thought, was an attractive feature of this particular proposal. Also, it would be indexed to the rising values of homes. As the average value of homes in the county went up, so would the homestead exemption. That's an idea for us to contemplate. I'm not going to offer an amendment at this point, but it is something I think you could think about for the future. There are ways to be creative. I think that what the committee has done is pretty good work. I wanted them to do more, and I wanted to do it my way. They chose not to do that, and I appreciate that and respect it. I intend to support the committee through the process, and I am particularly not so supportive of Senator White's amendment, because what I think that does is puts us in a very tight position. When...in the next year, say you pass the \$500--which is, by the way, an income tax proposal, not a property tax proposal--suppose you give people that \$500 credit, and then next year you decide you can't afford it. Are you going to vote to take that away and let the firestorm come down on your head? I don't want to have to do that. So I think that's a fatal flaw in that proposal,... [LB367]

SENATOR FRIEND: One minute. [LB367]

SENATOR AVERY: ...and you ought to think very carefully about it. Thank you, Mr. President. [LB367]

SENATOR FRIEND: Thank you, Senator Avery. Senator Wallman, you're next and you're recognized. [LB367]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. I, too, campaigned on property taxes and dealing with property taxes. And my ancestors actually donated some land to a school and they put their name on that school building. And eventually, they consolidated, and it's gone. And I'd like to have that sign, Senator Ashford, but I can't find it. And so, property taxes, I was going to submit a bill where you could actually access income tax to fund your public schools, which some counties in Iowa have, which is a much fairer way if you live in, like, a district like Senator Karpisek's and part of my district, you don't get any state aid and the only issue you have to fund your school is property tax. And it's pretty doggone high with inflated land values, irrigated versus dryland, all this stuff. It just keeps climbing, whether the income goes up or down, and it isn't probably going to stop. So the great Governor Tiemann started this program that we could access sales and income tax to fund our schools, and that formula was...like Senator Schimek said, was never fully funded; 45 percent state aid to schools, Senator Raikes, I don't think was ever fully funded. Why not? Well, we run out of money, we'll spend some here, we'll let the property tax owners pick up the bill. They should be held accountable. Former treasurer of a school board, I know a lot of times you spend millions of dollars, nobody at the meeting. Or at the county boards, if I go to the county boards and have an issue, maybe I'm the only one there, so

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you're probably not going to say anything. And most county officials, school boards, try to do a good job. But some probably waste some money. But I'd rather waste money on education than about anything. And so let's try to find a more equitable way to fund things. Maybe tax...you know, we're the only ones that can tax sales and income, the state. The schools can tax properties. So we're putting the burden on the property tax owners. And thank you, Mr. President. [LB367]

SENATOR FRIEND: Thank you, Senator Wallman. Senator Wightman, you are recognized. [LB367]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I would like to discuss some of the proposals. Again, being on Appropriations, have missed some of the discussion that's taken place this afternoon, so if I repeat something that's already been asked or said, please forgive me. Senator White argues that a refund of \$500 is equal treatment to everyone, and that may be true. My question is, is it equitable treatment to everyone? If it is, then I would suggest that maybe we raise everyone's income tax and sales tax sufficiently that we can pay everyone \$1,000, because I think it would follow the same theory. It would give us equal treatment, but I don't think it gives us equitable treatment. One who paid \$40,000 in real estate tax gets back the same \$500, under Senator White's proposal, as one who paid \$500 of real estate taxes. There is no relationship between the amount paid or the total amount that that person contributed to the taxes that were paid to support the schools. There is no relationship between them. But now, if I had to choose, Senator Avery's bill I think is more equitable, in that it would be geared to a percentage of the property value of the home. But again, it doesn't take into account that we may have a farmer or businessman paying \$40,000 or \$50,000 in taxes, but all we are trying to refund is on the basis of the home. And I think that is basically unfair. It's going to result in a tremendous transfer of tax liability. But we're going even one step further than that when we reduce our revenues through an income tax credit, as Senator White's bill proposes to do, in that we're not only changing the liability for property taxes, but we're taking a completely separate tax, in the form of income taxes and sales taxes, and refunding that to the property tax owner. And to me, that seems inequitable. As I say, we could just raise everybody's...taken to its extreme, we could raise everybody's income and sales taxes by 10 or 15 percent, maybe we can even distribute back \$1,500 through a tax credit. But I don't think that accomplishes very much, and all it does is eliminate many people who locally contribute to their schools, to their cities, and to their counties, who won't contribute anything. They'll get back everything they paid. And certainly, it does place the obligation to support these entities of government in a very few hands. So I don't think that's the answer. I think probably a reduction of property taxes, as suggested, the tax levy, as suggested by the committee is a better answer, and that we pass on some of that savings in the form of sales tax and income tax reduction. I know that there's been some suggestion, well, if we tie that to the estate tax exemption, that maybe we get a little more support for the bill, or whatever the reason might be to tie the \$500 credit

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against income taxes to the estate tax. I think they're totally separate. They probably affect people at completely opposite ends of the financial spectrum...or, economic spectrum. People should know--and I'm not saying whether I'm going to support or not support the estate tax repeal,... [LB367]

SENATOR FRIEND: One minute. [LB367]

SENATOR WIGHTMAN: ...but people should know that only about 150 people a year, decedents a year are affected by the estate tax, if we raise it to a \$200 million exemption as the federal exemption now is. So a relatively small people...a relatively small percentage of people are affected by that. With that, I will close for now. But I do support the amendment, do support the bill of the Revenue Department. Thank you...Revenue Committee. [LB367]

SENATOR FRIEND: Thank you, Senator Wightman. Senator Carlson, you are recognized. [LB367]

SENATOR CARLSON: Mr. President, members of the Legislature, this does have a relationship to taxes. Going at it, again, a little different direction, I believe that as Nebraskans we each have a responsibility to help fund the opportunity for a quality education for every child in Nebraska. At the present time, obviously, because of my age, I have no children in school. I do own, with my wife, property in Phelps County. I am a Nebraskan, and so I feel like as a Nebraskan I have just as much responsibility to be willing to contribute toward a quality education for a student in Lincoln or a student in Omaha, just as much as a student in Holdrege. Now, in referring back a little bit to some of the things that Senator Schimek said, as well as Senator Raikes, we'd like to reach a spot where we had equalized school districts. And I'll go back to what I said this morning. I believe that could happen if the state would become responsible for 66 percent of the cost of education. That would leave 34 percent for the local, in terms of property tax. Now, think with me for a minute. If we did that and the state was responsible for 66 percent of the cost of public education, what would the result be? In this body, we would be setting some serious priorities. We would decide what's really important. We would decide what must we have, and we would decide what can we give up, because almost every decision would be based on what can we take away from education in order to pay something else. I think it's worthy of consideration, worthy of study. And thank you, Mr. President. [LB367]

SENATOR FRIEND: Thank you, Senator Carlson. Senator Kopplin, you are recognized. [LB367]

SENATOR KOPPLIN: Thank you, Mr. President, colleagues. Those of you who were here last year, I'd like to take you back on a little journey. Last year, we discussed and debated and argued about an income tax cut. In order to pay for that income tax cut, the

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Revenue Committee took out the proposal to drop school property taxes from \$1.05 to \$1.00. The comment being made was, we can't afford to do both. I tried to make the case, not very well, I can assure you, but that my taxes actually went up by losing the nickel drop in property tax than it did what I was going to get back in income taxes. And that was true. The reason we got to the \$1.05 goes back a few years before that, when the state was short of money, so we put in \$1.05. But the law also says we will drop this back to \$1.00, and I think it was 2008. I'm not sure of the date. We broke our promise on that. Last year, we eliminated it. We should go back to at least what we're talking about of dropping the levy, and the other things we're doing for property tax, if nothing more than to just keep our promises. Thank you. [LB367]

SENATOR FRIEND: Thank you, Senator Kopplin. Senator Hansen, you are next and you're recognized. [LB367]

SENATOR HANSEN: Thank you, Mr. President. I want to remind Senator White that prior to 1967, that schools, counties, it was prior to the NRDs also, but all those local entities were 100 percent by property taxes. After 1965, when we did away with the state property taxes, then the Legislature levied the sales and income tax. Well, at that time, the schools thought, well, there's another source, I'm sure, so let's get some of that money in there. It's been an ongoing process ever since 1967, when we send state aid...which, I hate that term. It sounds like the state is coming up with new money to send back to schools. Well, it's not new money. It's not our money. It belongs to the people of the state of Nebraska. It belongs to all our constituents, in the form of sales and income tax. We send that monies back to the state to help fund the schools. Well, the school says...the schools, the counties, the NRDs, every one of those, wherever we send this group of monies back to, they say, well, now we've got another source of money, so we can have property taxes and this so-called state aid that comes back to us. I think that when I look at Senator White's idea--and I signed onto the bill when it came out, prior to the fiscal note coming out--but it's nothing but a tax shift. And I think of this as a Burger King tax shift, because this is a real whopper; \$220 million, I don't think we can...I think that this tax shift is not...this is not the kind of tax shift we need. Whatever we do with the Revenue Committee's money--this is not their money either--but whatever this money goes to is going to be a tax shift. It's going to be a one-time tax shift, with the exception of lowering the tax rate max on schools from \$1.05 to \$1.00. I think that's a good idea. I have constituents that say the reduction in the income tax didn't amount to anything. Well, it amounts to some, because the Revenue put a \$20 million tag on that, too. And this is all money, remind yourself, remind yourself that this is money that people sent in to the state as an excess of what we actually needed. This is going to be a one-time...more than likely, going to be a one-time return of this money, so it is definitely a tax shift. Our Governor stood here at the State of the State day and said, this is a tax shift. I understand that, and I hope everybody in here understands that it was a tax shift. There's 3 to 4 percent of the land mass in Nebraska is covered by cities and villages. That means that 96 percent, at least, is rural land,

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farms, ranches, wetlands, whatever you...whatever else there is out there. When we look at property taxes, I think we need to look at more than the cities. If you fly over Nebraska, you're going to see a city here and a city there. It's a very small state populationwise, but it's a very large state areawise. We need tax relief across the state. I think that the Revenue Committee has done a good job in looking at everything, to give some money back to a lot of people. If we were to...if we give \$400 million back in the next two years, it's going to be a significant amount. If we ask for \$400 million more, it would really be a significant amount. I think if we want real income tax reduction, we're going to have to look at cutting spending. This is not quite the time to do that, until we get the appropriations budget on the seventieth day, and then we're going to take some real hard looks at that. But this is money back to the people who paid it,... [LB367]

SENATOR FRIEND: One minute. [LB367]

SENATOR HANSEN: ...and I think that there's a way to do it, and I think the Revenue Committee has done a good job in coming up with this formula. I support the bill, the amendment and the bill. Thank you, Mr. President. [LB367]

SENATOR FRIEND: Thank you, Senator Hansen. Senator Rogert, you are recognized. [LB367]

SENATOR ROBERT: Thank you, Mr. President. members of the body, I have spent the day listening to our discussion on property tax reduction and the reduction of the levy, and I've been reading my e-mail as it runs in pretty regularly, and we would expect to get some response from our local educators on anything when we start to mess with their money. And I've heard from...I have several school districts that reach my legislative district, and I've heard from seven or eight of them today that are all very concerned about the fact that we're talking about lowering their levy lid from \$1.05 to \$1.00. And I have an example here that, it's a little different when you think about a rural school that is maybe struggling with its attendance. And say a school district loses \$75,000 in state aid, and it's...that's due to the levy lid change that we make. They also had...they lost six students. So they lose another \$50,000 in the way their state aid formulation works. But they didn't lose six French students or they didn't lose six shop students and they didn't lose six seventh graders; they lost a sixth grader, a ninth grader, a tenth grader, a third grader, a first grader, and a senior. So we lost \$125,000, and we didn't lose anything out of any one program that justifies the cutting of a person or a program. And so their budget becomes tighter in each one of those things, and they have to cut something totally unrelated. And so, you know, I question the fact...and I actually...if I could have...Senator Raikes, would you talk to me a second? [LB367]

SENATOR FRIEND: Senator Raikes, will you yield to a question? [LB367]

SENATOR RAIKES: Yes. [LB367]

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SENATOR ROBERT: What...will you explain to me, or...what happens when we lower this lid? Their main concern is that we have not had the ability to fully fund the state aid formula for some of these schools for the past couple years. And where does the guarantee come in that when we take this money away from their local levy, that we are going to fulfill that amount through the state portion? [LB367]

SENATOR RAIKES: Senator, let me ask you a couple of questions so that maybe I can better answer. The school district you're talking about is a nonequalized school district? [LB367]

SENATOR ROBERT: Yeah, these...I have only one nonequalized, and the rest of them are equalized. [LB367]

SENATOR RAIKES: Yeah, and so you understand, a nonequalized school district is one in which the calculated needs in the state aid formula are here, and the resources are here, so they have more money than they need in order to satisfy those needs. Do you happen to know, for that school district, what the spending per student now is? [LB367]

SENATOR ROBERT: No, I don't. And actually, the example I'm listing, it would be an equalized district. The example I'm talking about would be an equalized district. [LB367]

SENATOR RAIKES: If you're talking about an equalized district, Senator, then the...whatever is lost in the way of property taxes via...or, due to the lowered levy is made up in equalization aid. In other words, you've got state money coming to replace local property tax money. [LB367]

SENATOR ROBERT: They constantly tell me that we don't always meet that full formula amount. They're still getting shorted on that dollar amount. [LB367]

SENATOR RAIKES: Well, that might be a different issue they're raising with you, Senator. We...back in the budget crunch times, we put in what was called a temporary needs adjustment, and in fact, I think that goes out next year. We're going to eliminate that next year. So what we did is basically reduce that needs calculation at the state level, and then allowed, under certain circumstances, districts to make that up at the local level with higher property taxes, which of course is another reason that I think we need to address school property taxes at the... [LB367]

SENATOR FRIEND: One minute. [LB367]

SENATOR RAIKES: ...district level. [LB367]

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SENATOR ROBERT: Okay. I also have a district where the valuation actually went down last year. So they're going to get hit again. Is that going to...how is that going to affect? [LB367]

SENATOR RAIKES: Well, if their valuation goes down, Senator, their resource level would go down and their...that in and of itself would bring about more equalization aid. [LB367]

SENATOR ROBERT: Okay. Okay. Thank you, Senator. [LB367]

SENATOR RAIKES: Thank you. [LB367]

SENATOR ROBERT: Thank you, Mr. President. [LB367]

SENATOR FRIEND: Thank you, Senator Robert and Senator Raikes. Senator Erdman. Senator Erdman, you are next and you're recognized. [LB367]

SENATOR ERDMAN: Mr. President and members of the Legislature, my good friend, Senator White, is smiling at me because he thinks something is coming his way. You're one seat short, Senator White. Senator Robert, I don't know if you were paying attention to the conversation, it was earlier today or before--the state aid formula is always fully funded. It has to be. There's no provision in law that allows us to distribute the aid otherwise, and so whatever the statute requires, that's the amount that's fully funded. Now, the argument always has been whether or not that amount is sufficient. So in the event that we don't fully fund K through 12 funding, the aid formula that Senator Raikes was just referring to, if we come short of what the statutory requirement is, the Department of Education has no authority to distribute any of that money. So we need to make sure. It's not like in Washington, where we can argue about whether No Child Left Behind is fully funded. Literally, what the statute requires, we put in. And if we don't want to get to that number, we change that number, so that whatever that number is, we have fully funded it. That's always been the argument. It's never been whether or not we have fully funded it; it's whether or not that number is sufficient. And when we run into short times, we do reduce that number, for whatever reason. And sometimes we have given additional authority to local schools to make up the difference, and other times we haven't. And so from a policy standpoint, as we get into these discussions, I think your questions are spot-on, and I think it helps to further clarify the realities of our funding formula. Senator Raikes is probably one of the four people in the state that can actually explain it to you. I can't. I can only go to about the fifth derivative in the formula and figure out what that leaves us. And I think, from the discussions we've had the past years, Senator Heidemann has carried legislation, or an amendment, that stabilized that aid. That was included in LB1024. Unfortunately, that law is in somewhat of a limbo, depending upon other circumstances that were also in that law. Let me go back to what I believe I heard. And Senator White, being capable, will clarify this. But the comment

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was made, generally, that we should give the money back locally so that when the taxes are raised, they can afford it, or when the taxes are called upon, whether they're raised or not, the people locally have the money to afford it. Under that scenario, you're essentially taking money from one pocket and putting it in the other. You're trading scenarios here. Senator White would have the money go directly back to only primary residences, only those who have a primary residence for the \$500 credit. Or the alternative is, is what Senator Raikes is advocating, is an increase in state aid funding. If the state aid funding is not there, and they have the authority to get the makeup through property taxes, then they're going to need Senator White's amendment. But if the contrary is true, in other words, if the funding formula is at the level in which the committee is proposing, then you don't have to necessarily have the need. So it's a matter of how you want to do it, is I guess what I'm trying to get it. If you want to do it the way Senator White proposes, go for it. Understand fully that it deals with primary residences. If I'm a farmer, I get nothing. I get it for my primary residence, but I don't get it for my farmland, equivalent to what I would get if I was in an equalized district under the state aid formula. Maybe that's more attractive to the electorate in the state. I don't think it's more attractive to the people in my district, if you would have explained it to them appropriately in a poll and would have said, you're only going to get it on your residence, and, oh, by the way, you're not going to get anything for the acres and acres of land which you have to have in order to even be able to be competitive, let alone make any money, in farming. You're going to get no relief there. So I think it's a matter of understanding this. I'm not saying Senator White is wrong. I'm saying, as the committee amendment is being debated, we should flesh through these proposals as well. But as a basis for that discussion, I need to be more clear about how the existing law works, whether it's state aid and how that's distributed, or whether it's Senator White's proposal and how he intends that to be carried out. [LB367]

SENATOR FRIEND: One minute. [LB367]

SENATOR ERDMAN: I think it's appropriate. Some of you are walking around going, man, it just seems like we're talking, you know. And one of the TV shows that I used to watch as a young person was The A-Team. And Hannibal used to always get up and go, I love it when a plan comes together. And usually that was the end of the show, when things worked out well. My hope is, is that the end of this session we will have kept our word, as Senator Kopplin said, in this area, but in other areas, because I was here when we gave the people of the state of Nebraska our word that the tax increases that we had imposed upon them were temporary. We're not quite even there, with the committee amendments, even. I'm interested in this discussion. I very much am. Thank you, Mr. President. [LB367]

SENATOR FRIEND: Thank you, Senator Erdman. Senator Ashford, you are recognized. [LB367]

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SENATOR ASHFORD: Thank you, Mr. President. I was going to call the question, but this is too interesting, to be quite frank with you. And I appreciate the discussion. I think Senator Erdman has made a very interesting comment, and he's related back to history, and rightly so. And I go back probably--well, not "probably"--a bit further, to 1988, 1987, when we dramatically increased state aid. And at the same time, we did something, not exactly what Senator White is talking about, but we did something akin to it when we sent checks to the taxpayers as part of one of the tax plans during the Orr administration. And so I have been through this debate, and it's a great debate. And I'm very interested in what Senator Raikes is talking about. And one of the things that...here's my problem with...though I applaud Senator White, because I signed on to the bill, and property issue is a huge issue, but what I can't get over is a couple of things, is that if you go back to 1987 when we started to...I believe state aid was in the neighborhood of \$120 million at that time. I believe...am I right, Senator Janssen, that that's about where it was? And then by the time I left the Legislature in 1994, state aid had increased to around...somewhere in the neighborhood of \$450 million. And these are maybe a little higher than that. Senator Janssen is nodding his head. I think that's generally right. And if you look at the property tax increases over that period of time, versus what the property tax would have been had those state aid infusions not occurred, there would have been a substantially higher property tax for all property in the state during that period of time, and then now the property tax would be significantly higher. We can, as Senator Erdman is absolutely correct, we can send a check back to primary property owners, their residential properties. And it's not a bad idea. It's not a bad idea. The concern I have is that we have to look at the broad, long picture, the time...the 20 years, 25 years, 10 years. What do property taxes do over that period of time? And I would say the same thing about income taxes. If we were to reduce income taxes as we did in 1987, substantially, and they've gone up again since that time, substantially, since 1987, but if we could keep those tax rates down, if we could, not fully fund, but if we could reduce the levy on state aid...property tax for schools, it would result in...no question about it, it would result in a substantial decrease in at least the rate of growth of property tax. If income tax is reduced, then it would be reduced. Now, incomes could go up, and the actual amount of dollars you pay to the state would go up. But your rate would go down. So the quandary I have with my good friend, Senator White, who is a very, very thoughtful practitioner of this issue, is this. If we return the \$500 to the residential property owners--and it is an inviting offer, because we are...will look very good when we do this, as politicians--but that money could...let me ask...Senator Raikes, would you answer a question for me? [LB367]

SENATOR FRIEND: One minute. Senator Raikes, will you yield to a question? [LB367]

SENATOR RAIKES: Yes. [LB367]

SENATOR ASHFORD: Senator Raikes, just...if we were to decrease the levy lid to 90 cents, do you have any idea how much that would cost? [LB367]

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SENATOR RAIKES: You could probably multiply the \$60 million by about three. And it might be a little bit more than that, because following Senator Karpisek's discussion, that would bring most schools in the state into equalization. [LB367]

SENATOR ASHFORD: Right. And that's a good point. As you lower the lid, equalization applies pretty much across the board. There may be a few. What I'm saying here is, as we debate this--and Senator Erdman is right, it's a good debate--is that one of the big issues is, do we talk about one-time-only tax relief? And it could be more than one time, Senator White, and I'll grant you that. Or do we look at more, again, at a significant structural reduction in property tax growth--because it's never going to go down--property tax growth? And I'm very interested in this debate. [LB367]

SENATOR FRIEND: Time. [LB367]

SENATOR ASHFORD: Thank you, Mr. President. [LB367]

SENATOR FRIEND: Thank you, Senator Ashford. I apologize for ripping a "time" into you there. [LB367]

SENATOR ASHFORD: No, that was a rip, but... [LB367]

SENATOR FRIEND: (Visitors introduced.) On with discussion, members, of AM934, amendments to the first division of AM970. Senator White, you are recognized. [LB367]

SENATOR WHITE: Thank you, Mr. President. Well, I have a number of points to make, and to discuss good points made by my colleagues. To Senator Hansen, I would suggest to you, sir, the difference between a tax shift and a tax cut is where the money goes. If you move it from one governmental bank account, the state's, to let's say the school boards' or to the counties', I would tell you, and most voters I think would agree, that is a tax shift. If, however, we take it from our accounts and move it back to their pocket, that, sir, is a tax cut. And that's a fast-food method of explaining it--who gets the money and who gets to put the folding green in their pocket. And that's no whopper. If the taxpayer gets to put the money in their pocket, that's a tax cut. If the school board gets to put their money in the bank account, that's a tax shift. Now, one of the issues I have with Senator Wightman, he talks about what is equitable and just, and why this is limited only to \$500 for households, and said, it doesn't do enough for rural areas. Truly, I'd like to do more. I mean, who would not? Last year, however, Senator Wightman, I think we moved from 75 percent valuation to 70 percent valuation for farmland. When we do that, Senator Wightman, you well know that inside the district, the homes and small towns take the beating, because they still have the same cost, and they need to pay what it costs to educate the kids. So when you move it from 75 percent to 70 percent, you necessarily shift expenses to those who are not receiving that valuation

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benefit. In that case, it's the commercial institutions and it's the small towns. And that's not to my district, because I really have no rural land in my district, but that is an issue inside of the rural communities where you're trying, hopefully, to balance the interests and rights of the people who own agricultural land with the people who live in the small towns. And that is an intensely important issue for people in other parts of Nebraska that are less urban than my own. With regard to the...dropping the school...or, the levy limit, I'd like to point out, Senator Ashford, if he thinks--and I'd love to, if he were here--but, have we done a good job? Senator Hansen had mentioned, back in 1965 it was 100 percent by property taxes. At this point in time, according to the Governor's studies and those from the business groups that we've talked to, we've done a lousy job controlling both property tax and controlling income and sales tax. I mean, we've just not done a good job. I submit to you that that is because we have embarked on a method of trying to control property taxes that really weren't tax cuts, they were spending bills. And one of the things I hope we all caught as we talked about this, if we do lowering levy limits, no one knows how much they will really cost. The fiscal note proposed by the committee does not accurately reflect it. It talks about what we think the cost will be to put in the matter. But we don't know what the increased school aid would necessarily cost. We don't know. And we also don't know where it will go. We don't know whether or not, for example, Senator Carlson's district will be a big winner and Senator Karpisek's will be a big loser. We don't know. We also don't know, as Senator Rogert pointed out, what the long-term impact on budgets are. One of the problems we face--and these are long-term, systemic problems that are built into our system--is, we very much want our schools to be locally controlled, and I understand that and support that. What we don't want is necessarily to pay for them all locally. And the problem we face is, not only do we end up, on this end of it,... [LB367]

SENATOR FRIEND: One minute. [LB367]

SENATOR WHITE: ...putting money into schools that we don't control, the schools cannot count on our money going forward. Senator Ashford wants to say this is a long-term structural change. It's not. We have not always it. We may have to increase the levies back up if we have a shortfall. Nothing is permanent unless we have the money. But what we do is we start divorcing the decision making from the ability to control the money. We not only have problems with overspending; then, the people who are making the decisions on how to educate can't necessarily count on a steady, predictable stream of income. It's a really bad way to move forward. I thank you for your attention. [LB367]

SENATOR FRIEND: Thank you, Senator White. Senator Wightman, you are recognized. [LB367]

SENATOR WIGHTMAN: Mr. President, members of the body, first of all, I enjoyed what Senator Carlson said. I agree with him that we ought to look at moving up the proportion

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of the total school budgets that's paid by the state. And I think everybody is probably suggesting that. I'm a little concerned about his figures. He suggests 66 percent, maybe, of the total cost of education should be paid by the state. And I've done a little bit of mathematical calculation on that. Right now, the state's state aid to education cost is approximately \$850 million to \$900 million a year. And I just checked with Senator Raikes, and he indicates that's about 32 percent of the total cost of K-12 education. Moving that to 66 percent would probably cost the state slightly more than \$900 million. And I happen to serve on the Appropriations Committee, as I may have mentioned in the past. At any rate, that would be about a 30 percent increase in the state budget if we absorbed that all in one year. And I'm suspecting that Senator Carlson is not suggesting that we do all that in one year, but if we were even to try to do it in five, I was going to ask Senator Carlson if he would be willing to serve as the voluntary official spear catcher for the Appropriations Committee. At any rate, I think we should work toward that. I think that that is probably something we work towards on a relatively slow basis. And I'm not suggesting that he's saying that we should do that in one year, or even five. But maybe over a ten-year period we could move toward getting closer to 50 percent of the total budget, and I do think that might be doable. With regard to Senator White's statement, I still come back to the same thing, when we talk about whether it's a tax shift or a reduction of revenue or whatever it might be. It still looks to me like we are overtaxing on state income taxes and state sales taxes, and are proposing to give that back in the form of a credit to the property tax owners. And it still seems to me, whatever it may be termed by Senator White, that this is a massive transfer of tax liability. It may not be in a given year, in that we're returning it to the taxpayer for that year. But in the long run, somebody is going to have to make up that difference. So I continue to support the bill of the Revenue Committee. And thank you, Mr. President. [LB367]

SENATOR FRIEND: Thank you, Senator Wightman. Senator Schimek, you're next and you're recognized. [LB367]

SENATOR SCHIMEK: Thank you. Mr. President and members, I rise to take us back maybe to Senator Harms' comments on the floor awhile ago about looking long-term and doing an in-depth study of what we really want to do. And I do appreciate everything that the Revenue Committee has done, what they've put out on the floor. But yet, the more I hear the conversation here, the more I hear us going back to property taxes, again and again. And it would be really interesting, I think, to have us look at where the state has not met its obligation. We've mentioned a couple of things here on the floor today. We've mentioned county jails, for instance. And Senator Hudkins has had bills practically since the beginning of time on trying to take care of the state obligation to counties on that. We know that we are not at 45 percent of funding. In fact, I have a chart that's going to be passed out shortly that shows exactly what Nebraska's efforts have been in this regard, and what our local effort has been in this regard. There are probably...and I know there are other areas. We used to have aid to cities, that we

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don't have anymore. So over the years, when we've gotten in tight places with the budget, we have reneged, or cut funding. So I really think Senator Harms is right. I think that we need to look at the long-term picture, we need to look in every nook and cranny, and we need to do something substantive. We do not need to do something that's sort of hit-and-miss. If you look at this chart--and I don't know that you all have it yet or not--but it talks about federal sources, the efforts of federal sources, and then what comes from state sources. And if you go clear down to the bottom, to number 48, you'll see that Nebraska is 48th in its effort among all the states. The only ones below us, it looks like, are Tennessee, South Dakota, and then the District of Columbia. If you look at local sources, you'll see that we're number 10 on the list. So that means our locals are really making a very good effort towards the education of our children. And I don't mean to highlight education as where maybe we aren't making as good an effort as we should, because I know there are others out there, and I know that if we do this, this year, without any further study on it, I know that that money is off the table, well, it will be, at least, for another year or two, and that we may not be able to recoup the opportunity, we may not be able to seize the moment again. So I don't know what I'm going to do on this bill. I don't know what I think is best at this point. I sense that there may be some others in the body like that, like I, who do not know what to do either. And I bet Senator Chambers would say I shouldn't say "eye-ther," I should say "ee-ther." (Laugh) But just think about it, anyway. Are we really ready to make a decision? Are we really ready... [LB367]

SENATOR FRIEND: One minute. [LB367]

SENATOR SCHIMEK: ...to spend this money that we're not going to be able to recoup, without some further thought and study on the problem? Thank you, Mr. President. [LB367]

SENATOR FRIEND: Thank you, Senator Schimek. Members, we are discussing AM934, amendment to the first division of the committee amendments, AM970. Senator Synowiecki. Senator Synowiecki, you are next and you are recognized. Senator Synowiecki waives his opportunity to speak. Senator Raikes, you are next and you're recognized. [LB367]

SENATOR RAIKES: Thank you, Mr. President, members of the Legislature. I did hand out a sheet that's got, "Property Taxes Levied-Change Year to Year for Bonds, Growth, and Existing Property," which I would like to call your attention to. My motive here may be just a little bit off the topic. But I think it's been at least intimated that, look, all the state has done in terms of trying to control property taxes really has failed, nothing has ever worked. To that end, I would have you look at this, particularly the top section that covers the years 2001 to 2006. I think...and I'll also focus you in on the person, so to speak, that I think you should consider in looking at property tax increases. Suppose I'm living in the same house, I have not added ten rooms to it or anything like that, I'm pretty

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much like I've been, and I'm in a district that has not voted for bonds. In other words, we've had a vote within the district for bonds. What has happened to my property taxes? Now, if my property taxes have skyrocketed under that sort of a situation, I think that's a big concern. In that context, look with me. If you look at 2001, for example, total property taxes increased 7.39 percent. And you follow along that top line, 2003, they go up to 9.13 percent; and then in 2006, 7.01 percent. If you look at the three lines below, that increase is broken down into components. You've got, the second line component is bonds, voter-approved bonds. These are where the voters in a given district voted to impose a property tax upon themselves. So it's still a property tax, but it's a little bit different than one that is imposed without their consent, so to speak. The next one, the next line down, is growth. This is where you did, in fact, double the size of your house, or whatever you did. So again, this is a property tax component that is based, in part, on what you as a property taxpayer decided to do. Finally, you have the line that deals with property taxes for this citizen that I'm talking about that had his or her house, pretty much kept the house as is throughout this time period. One thing that I'll point out to you is, if you look across that line, the percentage increase in property tax very much resembles the rate of inflation. It's very much in that range. There is one year that's an exception. That's in 2003. And in that year, the state ran out of money. We simply had no choice; we had to go back to the property tax payers to ask them to fund more of the cost of schools, and some other things as well, but mainly the cost of schools. So, a couple of points. One is that the property tax lids and budget...levy lids and budget lids, I think, have a very respectable record. If you look at the results over the years, they're very much within range. The other thing is, when you do something like raise the school levy, it does have a big impact on property taxes. What we're asking now is to...let's step back from that event in 2003, so that we get the school levy back down to \$1.00,... [LB367]

SENATOR FRIEND: One minute. [LB367]

SENATOR RAIKES: ...and move forward from there. But this is just for your information. And again, I think it is supportive of what the Legislature has done over the years in terms of property tax policy, levy lids, budget lids, and school finance. Thank you. [LB367]

SENATOR FRIEND: Thank you, Senator Raikes. Senator Pahls, you are recognized. [LB367]

SENATOR PAHLS: Good afternoon, Mr. President, members of the body. I've been listening to the conversation, and this is one thing I have picked up, is the property tax has increased over the years. And I can tell you one reason why it has. Simply, we are paying teachers more. Eighty percent of any budget are salaries. So the property tax teacher salaries have gone up. That's good. So you have to take a look at, in your own communities, are those teachers basically...and administrators, are they overpaid? You

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think about it. If you compare Nebraska nationwide, we're not. But keep in mind, that property tax dealing with schools, 80 percent of that goes to salaries of the individuals there. So you have to take a look at that. Another thing I'd like to point out, most of the teachers probably spend, live in that community, buy groceries in that community, go to the doctors, the dentists, and the attorneys in that community, or surrounding communities. So that money is actually being poured back into the community. So that's one thing to take a look at. And another thing--and this is relating back to some of the senators who were here last year--one of the questions I had is on how much of that dollar gets into that classroom. And a little earlier this year, I also shared that with you. I'm sort of setting this up when we talk about education in the next couple weeks. We need to take a look at how much of the classroom...how much of that dollar actually gets in the classroom. In the urban areas, there are some school districts, 50 cents of the dollar gets in. The majority of them, 60 cents of the dollar gets in there. Those are the types of questions we ask...should be asking, because as we said earlier, we need accountability. I truly believe in that. I think we need accountability to take a look at it. So that's one of the things we'll be hearing about a little bit later on. And that leads me to another thing that I have been promoting. I do think we need to audit schools. I'm not talking financially. But why does School A seem to be performing so much better than School B. Well, you analyze those schools and you'll see, well, there are reasons why A is doing better than School B. Then that's where you say, okay, how much money is going here? Is money the issue, or are there other educational issues? And that all goes right back to the property tax. So I do think if we take a look at that, hold people accountable, this concern, which we do need on our property tax...I agree with the Revenue bill, we need to promote the concept of state aid. And I hope in a little bit when we hear from Senator Langemeier on his amendment, it will give us some more directions. Again, I thank you. [LB367]

SENATOR FRIEND: Thank you, Senator Pahls. Senator Langemeier, you are recognized. [LB367]

SENATOR LANGEMEIER: Question. [LB367]

SENATOR FRIEND: Members, the question has been called. Do I see five hands? I do see five hands. The question is, members of the Legislature, shall debate cease? All those in favor please vote aye; all those opposed vote nay. Record please, Mr. Clerk. [LB367]

CLERK: 34 ayes, 3 nays, Mr. President, to cease debate. [LB367]

SENATOR FRIEND: Debate does cease. Senator Janssen, you are recognized to close on AM934. [LB367]

SENATOR JANSSEN: Thank you, Senator Friend, members of the body. As I stated

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prior to the debate, AM934 is to correct a drafting error with regard to the second year of the tax credit. In one part of the amendment it refers to the \$50 million per taxable year 2008, and in other it is for the tax years after 2008. AM934 is needed to clarify that the \$50 million refers to the 2008 tax year. With that correction, it makes it correct, and I ask the adoption of AM934. Thank you. [LB367]

SENATOR FRIEND: Thank you, Senator Janssen. Thank you, Senator White. Members, you have heard the closing on AM934. The question is, shall AM934 be adopted? All those in favor please vote aye; all those opposed vote nay. Have you all voted who care to? Record please, Mr. Clerk. [LB367]

CLERK: (Record vote read, Legislative Journal pages 1194-1195.) 44 ayes, 2 nays, on adoption of the amendment, Mr. President. [LB367]

SENATOR FRIEND: The amendment is adopted. Next amendment, Mr. Clerk? [LB367]

CLERK: Mr. President, Senator Langemeier would offer AM1024. (Legislative Journal page 1185.) [LB367]

SENATOR FRIEND: Senator Langemeier, you are recognized to open on AM1024. [LB367]

SENATOR LANGEMEIER: Mr. President, I'd like to withdraw AM1024 and swap it out with AM1032. [LB367]

SENATOR FRIEND: Without objection, so ordered. [LB367]

CLERK: I have AM1032 in front of me, Senator. (Legislative Journal page 1195.) [LB367]

SENATOR FRIEND: Senator White. [LB367]

SENATOR WHITE: May I inquire, Senator, what rule, Mr. President, allows the transference of an amendment on that level? And if so, I would object. [LB367]

SENATOR FRIEND: Senator Langemeier and Senator White, will you approach the Clerk's desk please? Thank you, members of the Legislature. Senator White, you are recognized. [LB367]

SENATOR WHITE: As an accommodation, Mr. President, I withdraw the objection. [LB367]

SENATOR FRIEND: Thank you, Senator White. With that, the objection is withdrawn

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and Senator Langemeier, AM1032, you are recognized to open. [LB367]

SENATOR LANGEMEIER: Thank you, Mr. President, members of the body. I'm going to be brief. This is the portion that we've been talking about for the majority of the day. We've been talking about the portion in the second year that drops the \$1.05 down to \$1.00. This amendment, we've had some concern over the \$1.05 and I was hoping to get this \$1.05 discussion on this amendment even though we have talked about it in length prior to this amendment actually coming up on the schedule here. This amendment takes that \$1.05 and puts it in the third year. So the first year we'd have \$100 million, the second year we have \$109 million in this amendment, and the third year is the reduced levy limit from \$1.05 down to \$1.00. It moves it out a year into the next biennium budget. And so, with that, I'm going to leave it there. I'm not sure that we're even going to come to a vote. My intent was to have some of the \$1.05 discussion that we've had previously in the day at this point. And so with this, I know there were some lights on when I called the question moments ago. But I thought that discussion was relevant to this amendment. We're going to talk on it a little bit. Seeing no real direction with it, I may withdraw it so we can move on to Senator White's amendment, which is next. So with that, I will leave it open for discussion. Thank you, Mr. President. [LB367]

SENATOR FRIEND: Thank you, Senator Langemeier. Members of the Legislature, you've heard the opening on AM1032, an amendment to the first division of the committee amendments. Senator Kruse, you are recognized. [LB367]

SENATOR KRUSE: Mr. President and members, thank you. My comments, I think, apply to all that's before us. And I simply note that I've been listening studiously to the whole business and I'm confused by the words we use. Presumably this amendment would be a tax cut. I'm not convinced that it would be. We talk about tax cuts, we talk about tax shifts. And I recognize that if we send money to a school district, as we do in TEEOSA, we call that a tax shift since we're sure that school district is going to spend the money. If we send money to counties, which we are doing in the budget that's being proposed, then we call that a tax cut because we're sure that county boards are still a bunch of tightwads and they aren't going to spend the money. So the property tax owner is actually going to get some money back if we send it to the counties, but not to the schools. There is a need also, I hear, to be direct in our help of these places. So I'm wondering why, in Senator White's proposal, \$500 directly to each family is not considered a cut. Looks like a clear cut as I can find any place (laugh) because it's direct to the taxpayer. It's not going through any board. You don't have to have it passed on by somebody. So again, we call things shifts because they're in the name of property tax but yet they're not going to change it. In terms of the present amendment, I have real struggles with reducing the levy cap since I've been told by board chairs that they levy the cap even when they don't need it, just because they don't trust what we're going to do next. And by the various uses of words that we've done here, I can see why

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they don't trust what we're going to do next. I just am not confident that the levy cap has any relation to a reality that exists on the local level. Thank you. [LB367]

SENATOR FRIEND: Thank you, Senator Kruse. Senator Pirsch, you're next and you are recognized. [LB367]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I guess the good news I hear today is that, as we're talking about property tax in particular, is that it's an important facet of any tax relief plan. I think that that is a very good thing. I think that we could certainly be engaged in a number of worse debates than how to appropriately distribute property tax as a part of any tax relief plan. So I do appreciate the level of debate that's gone on here today and staying on the merits of the issue. And I do think that, and I appreciate the fact that we're, this committee amendment addresses all the different types of tax problems we as a state have been experiencing. It is refreshing to see as part of that this debate regarding the property tax and how we are, currently the debate is focused on perhaps the method upon which we're going to distribute that property tax relief. I think it is, and I want to make this clear for the record, I'm very supportive of the, also including as part of this tax relief, the income tax, addressing the marriage penalty. I thank the Governor for his role in making that a key component. I think that that particular tax oddity has existed for a long time now and makes no sense, and as well as the plan to eliminate or reduce the estate tax here in Nebraska. And so I do appreciate this important part, that property tax is a key component of this tax relief plan. And I think it is important to talk about the merits and demerits of the manner in which it is distributed to the...that property tax relief is applied to the people. Because I think, as I went door-to-door during my campaign, that is something that was brought up as a major problem in the lives of a lot of people. And I can't tell you how many times I heard people mention to me that that is a reason that they would soon be moving out of the state. So I do appreciate the conversation. With that, I'll yield back the balance of my time. [LB367]

SENATOR FRIEND: Thank you, Senator Pirsch. Senator Synowiecki, you are recognized. Senator Synowiecki waives his opportunity to speak. Senator Erdman. Senator Erdman waives. Senator Langemeier. [LB367]

SENATOR LANGEMEIER: Mr. President, am I the last light? [LB367]

SENATOR FRIEND: You are not. There is one other light. [LB367]

SENATOR LANGEMEIER: I'll waive. [LB367]

SENATOR FRIEND: Senator Heidemann. Is Senator Heidemann available to speak? He is. [LB367]

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SENATOR HEIDEMANN: Yes, is it my turn, my time? [LB367]

SENATOR FRIEND: Senator Heidemann, you are recognized. [LB367]

SENATOR HEIDEMANN: Yes, I wanted to speak on this amendment a little bit. This actually is something that I'm interested in and that I actually support. And I don't know how many other members of this body support it. But on appropriations, in the next biennium, the biennium that we're working on right now, in the second year, the '08-09 year, we are having to deal with temporary aid adjustment, and that is going to cost the state in itself \$30 million a year. As the bill is written right now without this amendment, we will be spending another \$60 million in TEEOSA approximately in that second year, in the '08-09 year. That will be \$90 million that we will have to account for in the second year of the biennium. If this amendment is adopted, it would push that back, that \$60 million figure back into the outlying, the out biennium, so that we can deal with the \$30 million cost of the temporary aid adjustment in the second year, in '08-09, and then we will deal with the \$60 million cost of this bill in '09 and '10. And that's the reason that I support this. This is going to make our life a little bit easier on appropriations. If you do this all to us in one year, we are going to have to deal with a huge increase in spending. And I would rather see it spread out over two years so that we can deal with it a little bit better. And that's the reason that I support this amendment. Thank you. [LB367]

SENATOR FRIEND: Thank you, Senator Heidemann. Senator Langemeier, you are the last light and you're next to speak. [LB367]

SENATOR LANGEMEIER: Thank you, Mr. President. At this time, I think the body has, no lights came on with this amendment, so I think we're ready to go. And I want to commend the Appropriations Chair. I understand how he would like to have this slide into our budget a little better. But I think at the time of doing tax cuts, I think it's time to do it, and with that I would withdraw my amendment. Thank you. [LB367]

SENATOR FRIEND: Without objection, so ordered. Thank you, Senator Langemeier. Next amendment? [LB367]

CLERK: Mr. President, Senator White would move to amend with AM950. (Legislative Journal page 1196.) [LB367]

SPEAKER FLOOD PRESIDING [LB367]

SPEAKER FLOOD: Senator White, you're recognized to open on AM950. [LB367]

SENATOR WHITE: Thank you, Mr. President. This amendment would really bring to head the issue we've discussed about all day. It is a straightforward issue. First of all, it gets rid of, in its entirety, the estate tax. The total cost of this amendment we can be

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certain is \$230 million. It is not a spending bill. Please note, one of the reasons that it is so important going forward for us as a body to recognize the difference between a spending bill, which is the committee's amendment and the committee's proposal in this, is it's not only what our own accounts do but it's also how we are perceived from the investment community and the business community. As you know, who sat with me when the Governor spoke in the State of the State, he talked about a dramatic need to control spending, not only to reduce and control the burden on our citizens but also so those professionals who evaluate the business climate of various states recognize that we have contained our spending, that we are fiscally responsible, that we are controlling how money is spent which will have an impact on those who choose to come here, either to live or do business. The committee's proposal is flat-out a spending bill. And when this Legislature is completed and this session is completed, it will be counted as spending and it will be calculated in what we do with the money. If, on the other hand, instead of taking the money discussed and putting it into the budgets of these entities, we return it to the taxpayers, it is not spending. It does not go against us, it is not recorded as spending, and it assists us in actually controlling our books, but also appearing to have controlled them. Now one of the complaints I have heard throughout this process is, well, \$500 does not do enough, it's not sufficient enough. I ask each of you to think of this because many of you may be asked by your constituents. And they will say the bill that, if you vote from the committee and I own a \$100,000 home, I got a note that you put \$80 into the budgets of my local spending authorities and I get that note in a single line on my property tax bill. I wanted \$500. You had a chance to vote to give me \$500 back. That was much more important to me than what you did. And I hope that you'll think about how you're going to answer that because that question should be asked. It's a fair question and I'm sure you'll have fair answers. One of them though that I do not think is going to be reasonable or fair is to say, look, we think this is a better continuation of a long-held policy in which we've controlled the expenditures on property taxes. We have not done that. Our system has not worked, it is broken. This is a chance to change that. This is a chance to fundamentally reorder how we do economic business in this state. Now I would again submit to you that one of the overwhelming problems we face is that the method by which we try to account and relieve property tax is so arcane that even really noted experts--like Senator Raikes, knowledgeable, intelligent, who spent decades in service to the state following this issue--cannot tell you how exactly it will impact various constituents. When even people who have spent so much time and have so much knowledge cannot tell you that, it should tell you that our system is broken, that we are not achieving the level of transparency that we should. I, on the other hand, will have a clear conscience. This, by the way, and I want to address this very clearly to you all, this is not an income tax bill. It is not. If you make no income at all but you pay property tax, you are entitled to receive up to \$500 back. That cannot be income tax relief. We use the income tax mechanism to return money paid for property tax because it is by far and away the most efficient, least expensive, and most certain to eliminate fraud. But this is flat-out a return of money paid for property tax. There is no other way you can describe it. It can be nothing

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else. And all that happens is it is using the Department of Revenue to make the checks go back to the property owners. One of the other points that's been a real criticism is it does not do enough for the rural areas. My amendment provides for the elimination of the estate tax, which overwhelmingly will support ranches and farmers. No longer will a small business in this state--a farm, a ranch, or a business--not pass on to children because we have interfered with that in this state. We completely take our hands off of the wealth. And so many have stood up for so long and railed against the death tax. This is a clear chance and it is a balance. Yes, this does give help to homeowners but it also passes on substantial benefits to those who have dedicated their lives to building a value in their farm or ranch. Finally, I would like to point out that we have done substantial benefits to the ag community in the past with various bills. For example, we have reduced valuations, and I think Senator Synowiecki corrected me, at 80 to 75 cents. Senator Synowiecki has the price that we have paid. That has come solely at the expense of the homeowners and small businesses. When you do that, you move the cost of education from ag land and you move it onto the homeowners. There's no other place for it to go. It is the homeowner's turn. Finally, by limiting it to homeowners, we have a substantial advantage that cannot be denied by those who favor this. I cannot justify taking hard-earned income tax and sales tax dollars of the middle class and giving such large sums to people who don't live here, who don't pay income tax here, and who don't pay sales tax here, like Ted Turner or like large corporations like Union Pacific. The Union Pacific, under the committee's bill, will get over \$850,000. When I go back to my constituents, I'm going to tell them I cannot justify giving you, who own a home worth \$100,000, \$80. I cannot justify that when I've given the Union Pacific, which is having record profits, \$850,000, which they didn't ask for. Nor can I justify sending this money, which should stay in our local economy, should stay here to help us develop affordable housing, help people afford it, moving it to Atlanta for Ted Turner to enjoy. Mr. Turner doesn't need it, but we need it here. Now we've talked about various promises kept. Interestingly in the committee, one of the real hot debates, and actually one of the most persuasive arguments Senator Raikes made, was regard to the necessity of keeping the promise on sales tax. Sales tax must be reduced, he said. We have to keep our promise. A much more recent promise, and arguably much more compelling in that if we have another budgetary shortfall, it is to sales tax we must turn to get short-term revenue. That has disappeared from the committee's bill. I have another amendment we will offer. And I tell you why I favor that even over this. Sales tax cuts, again, are not spending. Sales tax cuts are true tax cuts. This is a true spending bill. If, like me, you promised your constituents to do your very best to reduce and to control... [LB367]

SPEAKER FLOOD: One minute. [LB367]

SENATOR WHITE: ...the hit that property taxes have on them, then I urge you to vote for this amendment. And I also urge you to please consider once again, this is flat-out property tax relief. It is not income tax relief. It cannot be because even those that have

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no taxable income that pay property taxes are entitled to it. Thank you, Mr. President. [LB367]

SPEAKER FLOOD: Thank you, Senator White. We now proceed with General File discussion on AM950 to AM970. Senator Synowiecki, you're recognized. [LB367]

SENATOR SYNOWIECKI: Thank you, Mr. Speaker, members of the Legislature. First of all, I apologize for missing my couple opportunities to speak. I support Senator White's amendment. And I think it's just, while I recognize and I truly and genuinely appreciate the work of the Revenue Committee, I think there's an overwhelming realization by members of this body--by members of the Legislature, particularly those of us or those that had undergone competitive campaigns in the last election cycle--of the overwhelming response relative to the people of the state of Nebraska for substantive targeted relief in the area of property tax. I don't think that that's a debatable proposition, that our property taxes need attention, that they need attention under LB367 significantly. And while we have this, I think, general recognition that property tax is of a major concern to our constituencies, primary concern, the package as it's currently presented to us reflects, I think Senator Janssen indicated that 50 percent of the tax package is dedicated to property tax relief. I think we can do a little bit better than that, I really do. I think we can, in response to a demonstrated need as put to us by our constituents, we can do a little bit better than 50 percent in the package. Number one, I think it's important that we do something that's noticeable to our constituents, something that's demonstrable. I think Senator White has an innovative kind of strategy here to arrive at something that we can demonstrate, that's noticeable, that's demonstrative, that the constituents will receive this \$500 check relative to our work in the Legislature. Secondly, it needs to be sustainable. I think this can be easily sustained and massaged, changed and edited as we move forward. The amount can always...you know, budgeting is a fluid process, whether it's government, whether it's our families. As we're now during the time where we have a cash reserve and excess revenue coming to the state, we are now looking at strategies, attempting to develop strategies to give some of that excess income to the state, back. May not be that way two or three years from now and it wasn't that way two or three years ago when we slashed some \$780 million out of the budget. Budgeting is a fluid process. And I think Senator White's proposal gives us a lot of discretion when it comes to times where we may not have the type of fiscal picture that we're presented with this year. Senator Harms spoke of strategic planning. I agree. We need to do some level of strategic planning. But what happens when the budget bottom falls out? You can have all the plans that you want. But when the income to the state is not sustainable to where your strategic plan wants to take you, again, you've got to have fluidity in your budget planning. You have to be able to adjust. You have to be able to edit what you're doing. I think Senator White, relative to his plan and to piggyback on what we did with LB968 last year, Senator White mentioned the... [LB367]

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SPEAKER FLOOD: One minute. [LB367]

SENATOR SYNOWIECKI: ...agricultural assessments that was done last time. Senator Hansen spoke to how the state of Nebraska geographically is, a majority, agricultural land. And the state in our property tax segment of the tax bill last year did some measurable improvements relative to that in decreasing the assessment of agricultural land from 80 to 75 percent. Because of a loss of an estimated \$1,576,160,123 in taxable valuations, the result of that relative to state aid for fiscal year '08, is \$12.8 million, and for fiscal year is \$13 million that will be coming from General Fund appropriations to help facilitate and to help the adjustment that was... [LB367]

SPEAKER FLOOD: Time. [LB367]

SENATOR SYNOWIECKI: ...made on agricultural land last year. Thank you, Senator Flood. [LB367]

SPEAKER FLOOD: Thank you, Senator Synowiecki. Up next, we have Senator Preister, followed by Senators Cornett, White, Lathrop, Erdman, Stuthman, Karpisek, Friend, Hudkins, Wallman, and many others. Senator Preister, you are recognized. [LB367]

SENATOR PREISTER: Thank you, Honorable President, friends all. Almost everybody except the partridge in the pear tree. (Laughter) It's a wonderful day in the Legislature when we can all get up and sing the praises of giving taxpayers back taxpayers' money. It's a great day. There's little argument or disagreement on that account. And I'm singing the same praises. So if I could sing, I would actually do it. But we're just simply looking at different approaches in how we give some of those taxpayer dollars back to the public. And this is a method that meets some of the criteria that I have. So I support what we're attempting to do. I certainly support and have supported the committee. But I think Senator White has a very innovative way to do this directly. He's proposing to give anyone who pays property tax in the state on their primary residence, so they're not double-dipping, everyone who owns property gets their private residence, if they have their private residence in the state of Nebraska, the ability to get, if they pay \$500 or more, if it's less than \$500 they get perhaps the total amount. And he uses an innovative method of giving it back to them because he doesn't want to put more state money into a bureaucracy to create a mechanism to get it to people. He's giving it to them on their income tax. And if they don't pay income tax, it's set up to be refundable. So even if they didn't pay in or if they don't owe, if they have paid their property tax they get up to \$500 in credit, refundable, returned to them in a check from the state which the state is already set up to do. It's a simple mechanism. It's an easy way to do it without creating more bureaucracy. And what I like about that, is that check goes directly to the taxpayer. It isn't, as the committee amendment would do, a simple announcement on a property tax statement that some people may or may not even see

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with insurance and other costs on a person's home that's factored in and paid by, most cases, a mortgage company. These folks would never get that money directly into their pocket. They may or may not even see or appreciate the fact that we've done something. The way this amendment would do it, as it's structured, that check goes directly to the property owner. They get it back and it's only the mechanism, as Senator White articulated, that allows this to happen through income tax. It is property tax relief. The mechanism is such that once that check gets back to the property owner, that property owner, in most instances, I believe, is going to aid the stimulation of our economy. That \$500, or whatever portion of it, it is, is going to spent on paying bills, reducing some of the bills that are outstanding for those people. They're going to buy and invest in their children, in their families. They're going to use that money, and some of that is going to come right back to the state. It's also going to go into other businesses in the state, and that's going to be an economic stimulus that's, I think, an additional benefit and a bonus to what we're doing here. So it goes directly to the people. But if they choose not to spend, if they choose to invest it... [LB367]

SPEAKER FLOOD: One minute. [LB367]

SENATOR PREISTER: ...if they choose to do a savings plan, if they want to put it in the college savings program, but many of the people in my district are going to use it to offset their daily expenses. For some, it's going to be medicine. For some, it's going to be food. They're making some difficult choices in some of the lower economic income parts of our state, and it's a lot of those people that I feel I'm speaking up for because they would see a direct benefit. This money would go directly to them for their discretion, for them to make the determination of how they use it, what they do with it. This is \$230 million of taxpayer money going directly back to taxpayers to use in whatever fashion they choose to use it. And it's their choice in how they use it. I like that. It is sustainable. And I support Senator White and his amendment. Thank you very much. [LB367]

SPEAKER FLOOD: And your time is up. Nicely done, Senator Preister. Senator Cornett, you are recognized. [LB367]

SENATOR CORNETT: Thank you, Mr. President and members of the body. I want to thank Senator White for bringing us this amendment. It was something that we discussed at length in the Revenue Committee. Why I have my light on and why I'm speaking today is, I question whether it is germane to the first division. In my opinion, this is clearly an income tax proposal, which division one deals with. The amendment creates an income tax credit based on home ownership. Whether or not a person generates income is irrelevant. They will still have to file an income tax report to receive this credit. Senator Dubas has a similar bill in the way it is structured in regards to the Earned Income Tax Credit. It is also a refundable income tax credit and it is placed in the third division. I thank you for your consideration on this. [LB367]

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SPEAKER FLOOD: Senator Cornett, are you...you are wanting this for a ruling, is that correct, you question the germaneness and would like a ruling? [LB367]

SENATOR CORNETT: Yes, sir. [LB367]

SPEAKER FLOOD: Thank you, Senator Cornett. Senator White, I recognize you out of order to respond to Senator Cornett's request for a ruling on its germaneness. [LB367]

SENATOR WHITE: Thank you, Mr. Chair, and thank you, Senator Cornett. I disagree profoundly. If a person does not pay property tax, they can file income taxes from now until next Easter and they will not get any money. It has nothing to do with income, how much you earn. It has everything to do with property tax. If, for example, you have no income at all but you've paid property tax, you're entitled to the money back. What we use as a mechanism. That's like saying that this bill should be germane to the U.S. mail because we're using the U.S. mail as a vehicle to return the money. It has nothing whatsoever to do with the U.S. mail and everything to do with property tax relief, because that's what this is. The only time you are entitled to this money and the only thing you look at to be entitled to this money is, did you pay property tax on a home in Nebraska, period. And if so, you get up to the first \$500 you paid back. So the germaneness issue actually is something else, Mr. President. The germaneness issue is an effort to avoid a clear vote on a matter that is overwhelmingly popular. It is an effort to delay and diffuse what so many of us know the public has demanded. I suggest to the body that this germaneness issue is really, if it comes to it, going to be the definitive decision on this bill, on this amendment. And I ask this body for nothing more and nothing less than a clear and simple vote up or down on an idea that it seems we should at least consider. Therefore, given the fact that this has nothing to do with whether you made money or not, it has nothing to do with whether you have taxable income or not, it only is determined by the fact of whether or not you paid property taxes on a home, then it is obviously germane here. It is less germane to the income tax side. Will they then argue it's not germane to that, as well? Thank you, Mr. Chair. [LB367]

SPEAKER FLOOD: Thank you, Senator White. The Chair rules on Senator Cornett's germaneness issue in the following way. Pursuant to the Legislature Rules, Rule 7, sub (C) Motions, Sec.3, subdivision (e), the germaneness question is appropriate in a division of the question. With regard to Senator White's amendment, AM950 to AM970, language on page 18 of Senator White's amendment creates a \$500 credit for property taxes paid on a primary residence. The section amended is Nebraska Revised Statute Section 77-2715.07, which enumerates the tax credits under the state's income tax laws. The balance of the amendment repeals the state's estate tax provisions, and these are found both in Chapter 30 of the probate code and in Section 77, which deals with inheritance and estate taxes, renunciation of succession, death taxes, and an interstate agreement on compromise of death taxes. Senator White's amendment is

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germane to divisions two and three of LB367, but it is the ruling of the Chair that it is not germane to AM970. [LB367]

SENATOR WHITE: Mr. President. [LB367]

SPEAKER FLOOD: Senator White... [LB367]

SENATOR WHITE: I would appeal the Chair's ruling to the body, please. [LB367]

SPEAKER FLOOD: You wish to overrule the Chair? [LB367]

SENATOR WHITE: I do. Yes, sir. [LB367]

SPEAKER FLOOD: Okay. Senator White, we will proceed with your motion to overrule the Chair. The following procedures will be put in place as we discuss Senator White's motion to overrule the Chair. Senator White will be allowed to open and close for ten minutes at each time. He is not entitled to speak in between the opening and closing. Each member of the Legislature is entitled to speak once, for a time not to exceed five minutes. Senators may not yield their time to another member. Senator White, are you prepared to open? [LB367]

SENATOR WHITE: I am. Are we, given the time, could start this first thing tomorrow if the Chair puts this back on the agenda? [LB367]

SPEAKER FLOOD: We will continue with this motion into tomorrow should we adjourn prior to resolution on the same. [LB367]

SENATOR WHITE: Thank you. [LB367]

SPEAKER FLOOD: You may begin. [LB367]

SENATOR WHITE: My fellow colleagues, thank you for your indulgence on this. This becomes an essential point. The question is really going to be, at this stage, whether or not we will have a fair and complete vote on the fundamental substance of this issue. I submit to you that, at minimum, given promises that so many of us made, given the fact that our previous histories at different types of tax cuts have not worked, at minimum we deserve a vote. The motion on germaneness can, when used with other motions, whether it is cloture, other issues, be used to defeat actual decision making on substantive issues. That should not be permitted. We are the only house in this state. We deserve and pride ourselves on full and fair disclosure. I am comfortable abiding by a vote on the merits of this motion and would ask that we do the same and provide the same. I ask nothing more or less. I, however, do also recognize that it is possible that I might not be able to force this issue to such a vote, depending on future events, hence,

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the motion to germaneness at this point. And given the time we've debated this issue, I have to urge the membership to conclude, on one level, that this vote right now should be considered a vote on the substantive merits of the motion. I will ask for a roll call vote. I will ask that the house be called. I will ask that there be a vote, yes or no. And I will represent to you, I believe, not just myself but others will perceive this to be a decision by you as to whether or not we will truly try to return \$500 to the individual taxpayers of this state, or if we will put the money into other accounts, claim we've done our job to cut taxes while in fact spending money, claim that we once again are doing our duty by the taxpayers even though we know we are simply retreading ground that has been a failed path in the past. I ask the members simply for a clean, up or down vote. I ask you to vote no on...how will it be phrased, Mr. President? Will it be phrased as a yes, allowing the motion to go forward as germane, or is it to overrule the Chair? To overrule the Chair. I ask for a yes vote to overrule the Chair, to allow there to be a vote on the substance of this motion. And remind yourself, you have an opportunity here to do two really tremendous things in the history of state tax law. One is to return \$500 from our treasury to the people who gave it to us, who entrusted it to us. The other is to eliminate, in its entirety, the estate tax. These are tremendous achievements that are within our grasp. I ask your support on voting yes to overrule the Chair. Thank you, Mr. President, for your courtesy. [LB367]

SPEAKER FLOOD: Thank you, Senator White. You heard the opening on Senator White's motion to overrule the Chair. We will proceed with discussion. Senator Lathrop, you are recognized. [LB367]

SENATOR LATHROP: Thank you, Mr. President. I'd like to maybe reiterate some of the comments that Senator White, with respect to the germaneness issue. This amendment of Senator White's is very much about property tax relief. It is the income tax return that is used as a vehicle to determine who's entitled to it, but that doesn't make it an income tax matter. As Senator White correctly pointed out, if a person has no income but has paid property tax, they file the tax return to apply for the property tax rebate. And so the income tax is only tangentially related to the issue. It is all about the property tax, the \$500 property tax rebate that would go to property tax payers. And the fact that we distinguish and determine who's entitled to the tax rebate based upon whether they pay property taxes and not income taxes would suggest that this is about property taxes and not income taxes. And for that reason, I would support Senator White's attempt to overrule the Chair. Thank you. [LB367]

SPEAKER FLOOD: Thank you, Senator Lathrop. Senator Erdman, you are recognized. [LB367]

SENATOR ERDMAN: Mr. President, members of the Legislature, I stand in opposition to the motion to overrule the Chair. And I think there's, I guess from my understanding of the rules, a lack of understanding of the process. If the concern is that by amending

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the first division you have a chance to have this voted on earlier than the second or third division, you are correct. However, in the event that the motion to overrule the Chair is not successful, this amendment will fall to either the second or third divisions. It will still be in order. It will still have an up or down vote. It will still have the opportunity for full and fair debate, assuming someone doesn't move for cloture. Because prior to that, all amendments that are filed on a bill on General File will have to be disposed of prior to the advancement of LB367. It is germane to LB367. The underlying amendment that Senator White would have us to consider is germane to LB367. It is not germane to this division. I concur with the analysis of the Speaker and I believe that that's appropriate. And to the extent that you need further examples, the first 16 pages of this amendment are the same exact amendment that Senator Friend has filed on the second division. This is not about whether or not Senator White has his day. And in fact, it may be more effective to have his day instead of fighting this. But he has chosen this opportunity and he'll have that chance to make the case that this should be debated here versus where the Speaker has said it could be. And that's either on the second or third division. I don't interpret that ruling to preclude Senator White from offering his amendment at all during the debate on LB367. In fact, as I have mentioned earlier, I think that will be a healthy debate when we get to that discussion. And we've had some of it already with Senator Preister and others. I think that's an appropriate discussion. So to the extent that the argument is made that you have to do it now or never, I don't believe that's an accurate reflection of our rules. I don't believe that's an accurate reflection of the willingness of this Legislature to spend the time to debate this issue considering the fact that we've spent a number of days and hours debating other issues. We are about the people's business. And I would offer to Senator White if he believes that this is first and foremost in the effort of the people's business that we should undertake, that he will have that opportunity on LB367. It would be my humble opinion that it's not appropriate, as has been ruled by the Speaker, to be done on the first division. Thank you, Mr. President. [LB367]

SPEAKER FLOOD: Thank you, Senator Erdman. Senator Karpisek, followed by Senators Friend, Hudkins, Janssen, Synowiecki, Carlson, Langemeier, and Preister. Senator Karpisek, you're recognized. [LB367]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. Being my first year here, Senator Erdman would be much more well-versed--that's good grammar, isn't it--much better versed on the rules than I. But I would think, in my humble opinion, taxes are taxes. When we take this vote depends on how we're going to move along. And we are moving along one way. We need to get this in at the beginning: income tax, property tax, sales tax, whatever we want to do here to make our package. My argument is that it is germane because it is a tax and we are going to have to talk about it, as Senator Erdman said, sooner or later. I believe it's germane because the whole thing is going to be our package. Thank you, Mr. President. [LB367]

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SPEAKER FLOOD: Thank you, Senator Karpisek. Senator Friend, you're recognized. [LB367]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. Some of you will remember my old adage: God help me, I do love it so. I do. I can think of nothing more fun than a--pardon me, Mr. President--but I can think of nothing more fun to spend an afternoon doing than overruling the Chair on something. Honestly, seriously. I love Mike Flood, but this is fun. Look, there's a lot of question about process, procedure, why, why not, timing, practical nature of discussion. What have we been talking about all day? We're talking about property tax; all morning we were talking about property tax. Senator Erdman brought up an amendment that I have out there. I could have spent the morning talking about estate tax. Nobody would have questioned the germaneness, would they? Because they say, oh, that's just Friend going off on a tangent. Well, true. But we...(laugh) but there's some process here and there's some procedure we have to follow. And here's how it lays out. This thing was appropriately divided by the Revenue Committee. And I struggled with this a little bit myself. I'm kind of like, well, I don't know whether we should go down this road. This thing was appropriately divided by the Revenue Committee. It's divided by section. It's divided with sections: property tax, sales tax, income tax. Look, frankly, if I wanted to make a big splash, I would have screamed at Ray Janssen and some of these others, and said, put my division up first; I want to talk about that estate tax right away. I have established my feelings about the estate tax long before I got here to this body. And I feel very strongly about that issue. Haven't really talked about it that much yet. Here's my point: Does it matter? What we did talk about this morning was whether or not--excuse me, I step back--how much control this body has. And I'm obviously summing a lot of this stuff up, a lot of the morning up. How much control this Legislature has over local property taxes, that was the discussion more or less. If my view is, and I've tried to make it fairly clear that we just don't have that much direct control. We have indirect control. Senator Raikes has laid out that idea out there. If we don't, why in the world would I overrule the Chair on this right now? I'd like to help Senator White out to overrule Senator Flood on another occasion, but here I can't do it because this thing is divided appropriately. And we are talking about property tax. And if I would submit to you that I don't believe that we have the type of direct control over property taxes in this state that a lot of our citizens feel like we have, why in the world would I want this up in front to talk about something that isn't germane? It's not, it's as simple as that. I'm not trying to offend Senator White. This is not germane because I don't believe that we have control to go into our income tax system and say, by the way, let's hand out a property tax ice cream cone. Because that's what it is. There are a lot of ways... [LB367]

SPEAKER FLOOD: One minute. [LB367]

SENATOR FRIEND: ...that we could...pardon me, Mr. President? [LB367]

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SPEAKER FLOOD: One minute. [LB367]

SENATOR FRIEND: Thank you, sir. There are a lot of ways that we can skin this revenue cat. But there is process and there is procedure associated with it. And I didn't make the choice, nor did the majority of the rest of us out here, to divide it up in this manner. We elected a committee chair in Ray Janssen to deal with this type of subject matter, to deal with this type of process and procedure. Now, we can step back and say, you know what, he's whacked out, we need to do it our own way. But I don't believe that. I believe it was divided appropriately. With all due respect to Senator White, I say we move on with this subject matter so maybe later we can get to his subject matter in the appropriate spot later on. Thank you, Mr. President. [LB367]

SPEAKER FLOOD: Thank you, Senator Friend. Senator Hudkins, you're recognized. [LB367]

SENATOR HUDKINS: Thank you, Mr. President and members of the body. I agree that Senator White does deserve a vote and I will be voting no. I'm not going to be overruling the Chair. I'll explain why. But first I would like to comment on the process. Senator White could have added this amendment, as several other speakers have mentioned, to either the second or the third division, where obviously it would have been germane. Not overruling the Chair at this point does not take away the amendment. What I am critical of is the fact that AM950 is the same as LB453. LB453 was heard by the Revenue Committee and did not advance. Isn't Senator White's amendment an end around the Revenue Committee? We heard on February 26 a very similar example. A bill heard and not advanced--it was in a different committee, however--was the subject of a motion. Those speaking against the motion said, no, no, no, we don't want to emasculate the committee process. It's my contention that this amendment, AM950, does the same thing and should not be allowed. In addition, I have received information from an organization here in the state that says that there is a concern by county officials, mainly the treasurers and the assessors, by doing this. They're concerned about the method of administering a state tax credit. A similar tax credit at a prior time, and I don't know the year, resulted in county offices hiring additional help, paying overtime, and redoing tax forms, because Senator White's amendment asks that a form is put together. This was a significant cost to the counties, which resulted in the need for additional local revenue to cover those costs. Now if the Chair is overruled in this case, we will still see the amendment later. And if we do, I will again voice my objections at that time. If a procedure is going to be used on one bill, it should be used on another. There's something called precedent. If this bill was not advanced by the committee, then it should not be able to be amended onto something else. Thank you, Mr. President. [LB367 LB453]

SPEAKER FLOOD: Before we go to any other speakers, we shall go to Senator White. Senator, for what purpose do you rise? [LB367]

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SENATOR WHITE: I rise, sir, to withdraw the motion to overrule the Chair. Senator Janssen extended a courtesy to me, assured me that we will have an up or down vote on this amendment prior to moving to cloture. And that is all I have sought. And given his courtesy and his generosity, thank you, Senator Janssen. With the Chair's permission, I ask permission to withdraw the motion to overrule the Chair. [LB367]

SPEAKER FLOOD: Your motion is withdrawn. We are now back to the first component of the committee amendments, AM970. I have no additional amendments to AM970. I do have five senators desiring to speak to the first component. Make that four. Senator Janssen, you are recognized. Senator Janssen waives his opportunity to speak. Senator Langemeier. Senator Langemeier waives his opportunity to speak. The last light that remains on at this time is Senator Preister. Senator Preister, upon your arrival at your seat, you are recognized to speak. [LB367]

SENATOR PREISTER: Thank you, Honorable President, friends all. And certainly, friendly agreement here on this. I understand that the motion has been withdrawn so we're not really overruling the Chair or will have a vote on that. And just the plain up or down vote is something that I think Senator White deserves and that was part of what I was attempting to comment on. It doesn't have to take a whole lot of time, but it is an opportunity for people to make a choice. And after that, we go on with the rest of the package. So I think it's certainly commendable. I thank Senator Janssen for his accommodation. I am not sure how all that came to be, but the end result is we can at least take a vote, see where people stand, and then we move on. It's pretty direct. I like the opportunity to be able to do that. So to whomever in addition to Senator Janssen helped to make that happen, I simply say thank you. [LB367]

SPEAKER FLOOD: Thank you, Senator Preister. Senator Synowiecki, you're recognized. [LB367]

SENATOR SYNOWIECKI: Thank you, Speaker Flood. Senator Janssen? [LB367]

SPEAKER FLOOD: Senator Janssen, would you yield to a question from Senator Synowiecki? [LB367]

SENATOR JANSSEN: Yes. [LB367]

SENATOR SYNOWIECKI: Just so I get caught up where we're at, the amendment, AM970, what is that relative to? [LB367]

SENATOR JANSSEN: All right, it is the... [LB367]

SENATOR SYNOWIECKI: The property tax division, I know that. [LB367]

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SENATOR JANSSEN: Yes. It is...the first section was AM921, and it funds, the first year, \$20 million in Cash Reserve Fund. The second thing it did was clarify that \$50 million is in for the second year. And the last division was AM1024, eliminate the \$1.05 to \$1.00, which was withdrawn. That is the extent of it. [LB367]

SENATOR SYNOWIECKI: So what's the total General Fund exposure under this amendment, AM970? [LB367]

SENATOR JANSSEN: Oh, golly, Senator, I don't know exactly what that is. But if you'd give me just a second... [LB367]

SENATOR SYNOWIECKI: That's fine. Thank you. Thank you, Senator Flood. [LB367]

SPEAKER FLOOD: Thank you, Senator Synowiecki. There are no other lights on at this time. Senator Janssen, you are recognized to close on the first component of three of the Revenue Committee amendments, specifically AM970. [LB367]

SENATOR JANSSEN: Thank you, Senator. The amount, Senator Synowiecki, is \$109 million for '08. That would be the total of this portion of the amendment. With that, I think we've had a thorough debate on the first division, which was the property taxes. And with that, I would like your affirmative vote on this amendment. Thank you. [LB367]

SPEAKER FLOOD: Thank you, Senator Janssen. You have heard the closing on AM970. The question before the body is, should AM970 be adopted? All those in favor vote yea; all those opposed vote nay. Mr. Clerk, please record. [LB367]

CLERK: 34 ayes, 0 nays, Mr. President, on adoption of the first component of the committee amendments. [LB367]

SPEAKER FLOOD: AM970 is adopted. Mr. Clerk. [LB367]

CLERK: Mr. President, the second component of the committee amendments, characterized as the other components, other parts of that, of the original committee amendment is referred to as AM972, AM972. (Legislative Journal page 1196.) [LB367]

SPEAKER FLOOD: Senator Janssen, you're recognized to open on AM972. [LB367]

SENATOR JANSSEN: Thank you, Mr. Speaker, members of the Legislature. This division has one, two things in it. And the bill would repeal the sales tax on construction labor for commercial projects, effective October 1, 2007. This tax was first implemented in LB759 in 2003, and has been controversial ever since. Last year, LB968 removed the sales tax for construction labor for single-family residences and duplexes. And LB367,

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which is in this, would repeal that change on Section 10 through Section 16 of the committee amendment. Second, Sections number 7 through 9, would enact a new sales tax exemption for community-based wind energy projects and would be enacted under this proposal. Section 22 of this amendment would also increase the current tax credit for renewable energy projects slightly, and eliminate the one megawatt capacity requirement to make the credits available for more projects. That is the extent of the second section of this bill. Thank you. [LB367]

SPEAKER FLOOD: Thank you, Senator Janssen. You've heard the opening on AM972. Mr. Clerk, any amendments? [LB367]

CLERK: Mr. President, I do. I have amendments to this component. The first is Senator Janssen, AM923, but I have a note, Senator, you wanted to withdraw AM923. Mr. President, Senator Janssen would move to... (Legislative Journal page 1065.) [LB367]

SPEAKER FLOOD: It is withdrawn. [LB367]

CLERK: Excuse me, Mr. President. Senator Janssen would move to amend with AM935. (Legislative Journal page 1074.) [LB367]

SPEAKER FLOOD: Senator Janssen, you are recognized to open on AM935. [LB367]

SENATOR JANSSEN: Thank you, Mr. Speaker. This represents language that was accidentally dropped by Senator Preister in LB648 and was amended into LB367. The dropped language made it clear that the same facility could not both receive the sales tax exemption and the tax credit for the producing wind for these generators producing wind energy. And I ask for your adoption of AM935 to AM972. Thank you. [LB367 LB648]

SPEAKER FLOOD: Members, you've heard the opening on the amendment to the committee amendments. Senators wishing to speak are Senator Howard, followed by Senator Stuthman and Senator Preister. Senator Howard, you're recognized to speak on the amendment. [LB367]

SENATOR HOWARD: Thank you, Mr. President and members. Three years ago when I was running for the Legislature, I listened to countless homeowners complaining about the recently enacted sales tax on home repairs. I vowed that I would do everything that I could, if elected, to repeal this grossly unfair tax. It took two years and a lot of hard work by neighborhood associations, contractors, and home builders, but we were able finally to get the portion of this tax on home repairs repealed last year. I have the privilege to represent some wonderful older neighborhoods in Omaha. We are blessed to have many historic homes and businesses. Unfortunately, these structures require constant maintenance and upkeep, so this tax had a very detrimental impact on my constituents.

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I'm very pleased today to stand up in support of repealing the rest of this tax on commercial construction. As Senator Janssen mentioned, I have never seen a tax that was as unpopular and as unenforceable as this tax. Many contractors told me that this tax was so confusing that they simply did not collect it. Thousands of Nebraskans signed petitions last year to express their opposition to this tax, which were presented to the Revenue Committee. I want to thank Senator Janssen and the members of the Revenue Committee for bringing this positive step forward today, and I ask that you support this part of the tax proposal. Thank you. [LB367]

SPEAKER FLOOD: Thank you, Senator Howard. (Visitors introduced.) Senator Stuthman, you're recognized to speak, followed by Senator Preister and Senator Janssen. [LB367]

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I truly support the repeal of the construction labor tax. This is something that I had attempted to do before it got enacted, but they were in a budget crisis at that time and felt that there was a need for it. But it has created a lot of problems in the community, which has also created in a lot of disrespect for legislative bills being passed, as far as how those impact the communities, how those bills had to be perceived, how the recordkeeping had to come forth. And that was a real problem in the community. The question that I have, and I would like to direct that question to Senator Raikes, if he would respond. [LB367]

SPEAKER FLOOD: Senator Raikes, would you yield to a question from Senator Stuthman? [LB367]

SENATOR RAIKES: Yes. [LB367]

SENATOR STUTHMAN: Senator Raikes, in this committee amendment, this has an impact of '07-08 of \$6 million, is that correct? [LB367]

SENATOR RAIKES: Senator, you'll have to bring me up on that. What particular section are you talking about? [LB367]

SENATOR STUTHMAN: I'm sorry, I misspoke. I wanted Senator Janssen. I apologize for this. I apologize, Senator Raikes. You must be on my mind too much. (Laughter) I apologize. [LB367]

SPEAKER FLOOD: Senator Janssen, would you yield to a question from Senator Stuthman? [LB367]

SENATOR JANSSEN: Yes. [LB367]

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SENATOR STUTHMAN: Senator Janssen, the impact that this construction labor will have is a \$6 million impact, as far as the revenue that we would be anticipating in getting in '07 and '08. Is that correct? [LB367]

SENATOR JANSSEN: Yes, that's what the Fiscal Office said it would. But you know, Senator Stuthman, while we're on the subject, I've always maintained that the state never did save any of that sales tax. It was an in and an out situation. By that I mean when the contractor did the work on the building for commercial, say in your hog farm operation or in my store, there was sales tax charged on that. Now it all depends upon how big the project was. And I've discussed this with the Department of Revenue over the last few years. And if it was a small enough amount, you would deduct that as a business expense. If it was a larger project, you would put it on your depreciation schedule and depreciate it all out. So yes, it did maintain residence within the Department of Revenue for a short period of time. But it was a lot of work, a lot of figuring, contractors and the person who the work was being done for, to comply with this. And the revenue that remained within the department didn't stay there that long. Do you understand what I'm talking about? With that, you know, it's your time, Senator. [LB367]

SENATOR STUTHMAN: Yes. [LB367]

SENATOR JANSSEN: I'm sorry. [LB367]

SENATOR STUTHMAN: Yes, thank you, Senator Raikes. The point that I want to make is, when this bill was enacted, and I think it was in 2003, 2004, when the initial intent of the sales tax added onto remodel and reconstruction, it just went on to residents at that time. And the impact was stated it was going to have a \$50 million impact. And they felt that was needed and that was the reason that it got passed. It was helping the budget at that time, \$50 million. I don't think they ever collected that kind of money, I really don't. A year ago, we took off the residential sales tax portion of it... [LB367]

SPEAKER FLOOD: One minute. [LB367]

SENATOR STUTHMAN: ...but in exchange for that, we put it onto the commercial, commercial remodel and reconstruction. And some of those projects had a \$45,000 sales tax bill on those. So I am just really glad that we're taking all of that off. And I think we should be very careful in the future that we don't put...am I done or was I cut off? Okay, thank you. I just thought I was; I couldn't hear myself. I'm sorry. But I'm just glad that we're taking it off and I stated that we should be very careful so we don't enact something again in the future, a piecemeal project like this. Thank you. [LB367]

SPEAKER FLOOD: Thank you, Senator Stuthman. Senator Preister, you're recognized to speak on the amendment. [LB367]

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SENATOR PREISTER: Thank you, Honorable President, friends all. I stand to support the amendment that Senator Janssen has proposed to the committee amendment. This amendment, he did describe clearly and accurately, was an inadvertent leaving off of some language. It was never my intent that the zero emission generating facilities be able to access both components of this tax credit. So at this point I do support that. It simply adds for the new zero emission facility, referring to them not qualifying for the renewable energy tax credit. They would just be able to receive the sales tax. I agree with the amendment. I also support the underlying committee amendment and this portion of it because I think it will help make Nebraska more competitive and put it on more of a par with what other states are doing to help incent both renewable energy and accelerate rural economic development. This is an economic development opportunity. The C-BED project is in a separate bill that Senator Dierks introduced. It was in the Natural Resources Committee and just recently was advanced out with some amendments. As a result of some changes in that bill on Select File, we will need to change some of the definitions in this component. But that's more technical. It really just deals with definitions and doesn't change what we're doing here. But this component is one of three different bills and all of them have been advanced from committee. I think they're good for rural economic development. I think they're good for air quality. I think they're good for the state. And I support all of them. The other component of this provision of the Revenue Committee amendment also deals with the repeal of the sales tax on construction labor as it applies to those commercial jobs. And I fully support that as well. Senator Janssen has made the point that, because of the tax codes and how these jobs can also be written off or depreciated, we're probably not gaining a whole lot. We gain on one hand but lose it on the other, so this really isn't much of a loss in the long run of revenue to the state. But it has been a loss to time, a loss to bookkeeping, a loss to contractors, and to the challenges that they have had in order to comply with it. I think at this point it's the wise policy to do. It's good for the contractors. It's good for the people who are paying for the jobs. And I think it will also encourage a little bit more in the way of what those contractors are able to do and the businesses able to implement in their renovations and their upgrades as they do those contracting jobs. So I think everyone benefits from this. I think it's also good public policy. I support AM972 and I support AM935 and would encourage my colleagues to do likewise. Thank you very much. [LB367]

SPEAKER FLOOD: Thank you, Senator Preister. Senator Janssen, you're recognized to speak on AM935. Senator Janssen, you're recognized to speak. [LB367]

SENATOR JANSSEN: Was my light on or...? Oh, okay. Well, thank you. I thought that maybe Senator Preister and I could have a little more dialogue. But with that, I think that he has covered the wind energy, which he has done a lot of work on over the last 15 years that he's been here. And I think this is something that we really, really need to do more of. We have heard in the Revenue Committee from hog farmers, people who have

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anything, actually any organism can generate some type of energy. And I believe that with...and wind energy also. You know, you get in the north-central part of this state and the wind never quits blowing. It always blows. And I think that you're going to see more of that coming along also. Senator Preister, thank you. Thank you, Mr. Chairman. [LB367]

SPEAKER FLOOD: Thank you, Senator Janssen. Senator Langemeier, you're recognized to speak on the second division of the committee amendment. Senator Langemeier waives his opportunity to speak. Senator Pirsch, you're recognized to speak on the second division of the committee amendment. [LB367]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I'd just like to echo Senator Stuthman's comments with respect to the provision in the second division that would get rid of the sales tax on remodeling labor when it deals with commercial type of "undergoings." I can't tell you how many times, as I talked to small businessmen as I was out there on the campaign trail going door-to-door, that they were telling me that this does have, in fact, a material effect upon their operations. That for a small business, when you're talking about small contractors, that it really was a nightmare of a problem meeting the paperwork requirements that they could otherwise be spending their time in a productive capacity and helping to improve the communities, and instead are, because of the extensive paperwork involved in that, really did have to suffer. So I do view this as a way of helping small businesses in our community. So with that, I'd cede back the balance of my time. [LB367]

SPEAKER FLOOD: Thank you, Senator Pirsch. Senator Fulton, you're next to speak on the Janssen amendment to the second division of the committee amendments. [LB367]

SENATOR FULTON: Thank you, Mr. President. Would Senator Preister yield to a question? [LB367]

SENATOR ERDMAN PRESIDING [LB367]

SENATOR ERDMAN: Senator Preister, would you yield to a question from Senator Fulton? [LB367]

SENATOR PREISTER: Yes, I would. [LB367]

SENATOR FULTON: Senator Preister, could I...? I need to get a little bit more education, I guess, on the renewable energy portion of the amendment. I think I'm supportive of it but I want to be certain I understand the mechanism by which this \$61,000 and \$102,000 of revenue will be depleted. The October 2007 through January 1, 2010, the...I guess, can you explain how...we go from .075 cents to 0.1 cents for that period of time. Does it lapse after 2010 or can you explain that mechanism a little better

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for me? [LB367]

SENATOR PREISTER: Sure, Senator Fulton. Thank you for asking the question. Essentially this is startup and incentive to get started. So it does end unless this body chooses in the future to refund it. It's front-loaded, and the concept is you get the most money in the early years because we want you to invest in renewable energy. And as time goes on, it diminishes. So that provides...if you want to get the most, get to the table and get it in now so we get the benefit of less air emissions and more renewable generation. So it does diminish and that's the reason. But as you look at that, it's .075, so that's essentially one-hundredth, it's not actually a cent or three-fourths of a cent, just for clarity. [LB367]

SENATOR FULTON: Okay. And this occurs, 0.1 cents per kilowatt hour generated, so they're going to have...these renewable energy producers are going to need to have...they're going to need to be up and producing energy within this period of time, '07 through 2010, in order to recognize this tax incentive. Would that be a correct assumption then? [LB367]

SENATOR PREISTER: This is get paid if you produce. If you're not producing you don't get the incentive, which is the best way to do it. So you've got to make the investment, you've got to have it up and running, and you have got to show that you're actually generating that before you can claim the credit. That's correct. [LB367]

SENATOR FULTON: Okay. I appreciate that. That's an innovative approach, putting the tax incentive as a monetary value per kilowatt hour generated; that there's no other way to get it unless they're up and running. So I appreciate that, Senator Preister, I do, and I will be supporting this amendment. Thank you, Senator Preister, for bringing this renewable energy credit to this bill. Thank you, Mr. President. [LB367]

SENATOR ERDMAN: Thank you, Senator Fulton and Senator Preister. Senator Cornett, you're recognized to speak on the Janssen amendment to the second division of the committee amendment. [LB367]

SENATOR CORNETT: Thank you, Mr. President. I just rise in support of the renewable energy. Nebraska has fallen behind the states surrounding us in this type of energy production and I just rose to support Senator Preister and thank him for bringing this section of the bill. [LB367]

SENATOR ERDMAN: Thank you, Senator Cornett. Senator Janssen, you're recognized to close on AM935. [LB367]

SENATOR JANSSEN: Thank you, Mr. Chairman. I just want to say again that I believe that Senator Preister's division is something that we're going to see more of as time

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comes along, and hopefully I'm around long enough to see lots of gas-operated generators and wind generators through this state, even though this is a public power state. We're going to have to be kind of careful how that is arranged, but that's another debate for another time. With that, I would appreciate your positive vote on this section. Thank you. [LB367]

SENATOR ERDMAN: Thank you, Senator Janssen. Members, you've heard the closing on AM935. All those in favor vote aye; all those opposed vote nay. Have all members voted who care to? Record please, Mr. Clerk. [LB367]

CLERK: 40 ayes, 0 nays, Mr. President, on the adoption of Senator Janssen's amendment to the committee amendment. [LB367]

SENATOR ERDMAN: The motion is adopted. Mr. Clerk. [LB367]

CLERK: Mr. President, Senator Friend would move to amend this component with AM1027. (Legislative Journal page 1196.) [LB367]

SENATOR ERDMAN: Senator Friend, you're recognized to open on your amendment. [LB367]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. This, as my friend Senator Wallman likes to kid me about, I don't think this should cloud any issue whatsoever. Every morning I think it's one of these: Mike, what issue are you going to cloud today? Well, it's fun, but this shouldn't at all. This is real simple and we all knew the discussion was coming. It's either...it's not my idea. I thought about it for a long time but there's, you know, 10 or 12, 15, 20, 30, maybe 48 people out here, I don't know, maybe 49 that don't think this is too bad an idea. I pointed out earlier that I truly do respect the work--I think most, if not all of us do--of the Revenue Committee, and it's tough work and they've proven that with some of the discussion this morning. It's difficult. A lot of people have different ideas, and it's difficult to filter through that. But this is an idea, as I pointed out earlier, that everybody has thought about and, to me, not to sound too cliché about it, a simple matter of fairness. AM1027 repeals the estate tax, period. That's it. Now you say, well, look, we've dealt with this issue in committee; we've, you know, opted not to deal with it any further or deal with it in a different manner with revision. And I respect that. More than likely if we don't go to a vote or we don't choose to vote on this particular item or Senator White's item later on, I guess that we'll probably move to that revision option that the committee came up with. But here's some ideas, and the reason that I'm here and the reason that I believed, for about as long as I can remember or as long as I've been trying to analyze this type of stuff, not only in my own mind but with other people, whether it's around a dinner table or in an office building or wherever you're at, why this is a halfway decent idea. It's a certain amount of people are going to come out and saying, you know what, all you're doing is trying to

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help the rich, that's it. Because look, an estate tax is highly progressive. Almost all of it from the federal standpoint, when it was being utilized to its fullest, if you will, almost all of it is paid by the highest income 10 percent of the tax units. Almost 99 percent of the tax falls upon the top 5 percent, and over one-third is paid by the richest 1 in 1,000. Now the first thing somebody could do, walk up to a guy like me and say, you know what, all you want is tax cuts for the rich. Let's consider something else though. Matter of fact, I'll give you that argument, but let's consider something else, okay? An estate tax burdens. We have a business in this state. It's called farming, right? Now who does the estate tax affect the most? This burdens small farms, small businesses. These are confiscatory taxes. It's plain and simple. That's why I don't like it, that's why I don't think this Legislature should like it, and that's why I don't think the people in this state should like it. We spent a good portion of the morning talking about very important subject matter, no question about it. I don't care who brought it, it was important. But the most unfair, the most punitive, the most inane tax that we have in this nation is the estate tax. We're talking about money that's already been affected by income, the income tax system. I think it discourages, I think it discourages work and thrift and, as I pointed out, I think it re-taxes. That's my view. People spend thousands of dollars to try to avoid taxes like this. What does that scream? That, to me, screams punitive. In my life...look, I don't know where we're going to go with AM1027. I know that Senator White has got an idea, packaged a little different way. I don't know where we're going to go with this. I'd like to talk about it. I think it's important. I think the people are getting hammered. We asked farmers in this state and, look, I live in northwest Omaha. I can hit a golf ball over to Irvington but there aren't too many farms over there; Wenninghoff, that's about it. I'm not a farmer. But one of the largest business units in this state is the farm. That's who this tax affects. You all know it. You all can look me in the face and you know it. You can tell me that. You can tell me that it's not going to affect you when you pass away or try to hand this off to a kid, this farm. You tell me it's not going to affect you. You tell me you're not going to spend tons of money trying to figure out how to avoid it. That's not why we create a revenue system, to try to set up things that people can avoid. If that's not punitive, what is? Look, maybe it's just a chance for me to vent, ten minutes for me to vent, I don't know, but I saw it as an opportunity. I told Senator Janssen, I told his staff that it's obviously problematic, practically and procedurally, that I'm here with this right now. But just like you, I'm a member of this body, and just like you, I have a voice, and just like you, I think we can make an argument that if we go back to those constituents that are complaining about their property taxes, and rightfully so; if we go back to those constituents who are complaining about their income taxes, if they are, rightfully so; if we go back to those constituents who are saying, you know what, why do I have to pay this stupid wheel tax?--I just bought a new car and it cost me \$1,200, I'm never going to buy a new car again. We can go back to those type of constituents and say, you know what, I had an idea and here's what it was. And your constituents are different than mine. I know that. How many folks that live in my district is the estate tax going to affect? It's not going to affect me. I can live...my guess is this: \$2 million, \$1 million, \$2 million, I don't care; revise it. This is just a guess. I'm rolling the dice here. I

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don't think I'm going to have \$2 million to give my kids when I die. If I die tomorrow I'll guarantee I don't. If I die 20 years from now, I still don't think I will. If I die 40 years from now, I don't know that I'll care. (Laughter) But there's a point. There's a lot of people that it does affect and it's not just a bunch of fat cats who are trying to hide a bunch of money on the top end. I digress. This is an unfair tax. We can revise it, we can do that, but we've already decoupled ourselves from the federal government. Why did we do that? [LB367]

SENATOR ERDMAN: One minute. [LB367]

SENATOR FRIEND: The federal government is going to blow this away. The federal government, more or less, has. We've decoupled ourselves from them. Wonder why we did that? Because it's a cash grab, it's a money grab, and we know it. We have things to pay for. I can appreciate that. Two hundred million bucks, that's what this would cost, or so, give or take--probably take. But I think it's time to start making these decisions. If we make them now, great. If we don't, I think that there are going to be future Legislatures having to make the decision and I think by that time we might not have the luxury or the ability to make a decision like this. I'd like some discussion on it. I'll leave it up there for awhile. Personally, I'd like a vote. I've talked to Senator Janssen about it and I'm not sure that I necessarily want to go that direction, but I'd like to hear some discussion. Members of the Legislature, thank you. Mr. President, thank you. [LB367]

SENATOR ERDMAN: Thank you, Senator Friend. Members, you've heard the opening on the Friend amendment, AM1027. Those senators wishing to speak are Senator Fulton, Carlson, White, Langemeier, and Gay. Senator Fulton, you're recognized to speak. [LB367]

SENATOR FULTON: Thank you, Mr. President, members of the Legislature. Senator Friend, I think you said \$200 million. I think you meant to say \$20 million, which would make me feel a little bit better. The estate tax...now I want to start this by saying I recognize that there has been work done in the Revenue Committee, and if mathematically this...the passage of this amendment messes things up, I will defer to Senator Friend and to the Revenue Committee also as to how this works mathematically. At the end of the day it all has to add up. I'd like to speak at this by way of long-term policy, the estate tax. Senator Friend has spoken at this by way of fairness and justice. We should also look at the estate tax by way of policy. I work in my professional life with senior citizens and, as you are well aware, the baby boomer generation continues to age. This was the first year that the baby boom generation will turn 60. Right now the state government has a certain dependency on the estate tax to the tune of about \$20 million, I've heard \$18 million, but that's about where we are at now. In the next 10 to 15 years, as the baby boom generation begins to pass and they begin to pay that estate tax, those of the baby boom generation who choose to remain in Nebraska, that \$20 million will bloat. It will be more. We could find ourselves in a

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situation where we won't be able to repeal the estate tax. If we're not able to get at it now, that estate tax dollar figure will only grow, and in the coming years we may find ourselves in a situation where we have a monetary dependency by way of tax policy on the death of our citizenry. And when that baby boom generation, in 30 or 40 years, has passed on and we don't have their estate taxes to collect anymore, then what will we do? We should think of this by way of policy, long-term policy. We have an opportunity now to get at the estate tax where, granted, we're going to feel some revenue pain by doing so, but it will not be the revenue pain that we would feel in the future. And so I pose that question to reflect on. If we allow the estate tax to proliferate after the generation passes, the generation which I assume the estate tax...the estate tax was decoupled from the federal estate tax because of the impending baby boom generation. What happens when that generation passes away? Then we will definitely have a problem with regard to revenue coming in. So I pose that for broader consumption. Thank you, Mr. President. [LB367]

SENATOR ERDMAN: Thank you, Senator Fulton. Senator Carlson, you're recognized to speak, followed by Senator White. [LB367]

SENATOR CARLSON: Thank you, Mr. President, members of the Legislature. And I appreciate Senator Fulton's views and believe it's a good way to look at this, that if we don't get too used to something we'll get along without it. And I think his point is well taken for what may come in, in the way of estate taxes, over the next 20 years. I would like to address a question to Senator Friend. [LB367]

SENATOR ERDMAN: Senator Friend, would you yield to a question from Senator Carlson? [LB367]

SENATOR FRIEND: Sorry about that. Yes, I will. [LB367]

SENATOR CARLSON: Okay, Senator Friend, I don't know if you've given this much thought. Certainly I'm interested in economic development and I've heard some arguments about elimination of the estate tax would be beneficial to economic development. Do you have any thoughts on that? [LB367]

SENATOR FRIEND: I do. You want to hear them? [LB367]

SENATOR CARLSON: Yes. [LB367]

SENATOR FRIEND: I think that it would be...I think that it would...I think economic development comes in a lot of different forms, Senator Carlson, so I'm not going to go...I'm not going to get too crazy on you here, but I do think there's economic development associated with the repeal of an estate tax, promotion of economic development, and that being more specifically an idea of every accountant that I talked

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to and CPA in this state that says...the first thing they tell me, they don't talk about property taxes, they say that estate tax, it's killing us. I got a bunch of retirees who used to come in here. They're leaving. They're going to Florida. They're going wherever. Now granted, they might have went to Florida anyway, because they're snowbirds or whatever and they've got some land down there, but we're talking about people not being able to afford to retire here anymore and, frankly, we keep talking about economic development and young people, but our elderly too. I mean I...we're not...we're living longer every year and we don't want retirees fleeing, because retirees spend money too. So I think economic development comes in a lot of different forms, so I do. [LB367]

SENATOR CARLSON: Okay. Thank you, Senator Friend. I agree with that, and the more assets that we can encourage people to keep in the state of Nebraska, the time that those change hands and go to a new owner, there's a good chance they're going to be spent. So I appreciate this discussion and do support the amendment. [LB367]

SENATOR ERDMAN: Thank you, Senator Carlson and Senator Friend. Senator White, you're recognized to speak on the Friend amendment, followed by Senator Langemeier and Senator Gay. Senator White. [LB367]

SENATOR WHITE: Thank you, Mr. President. As you know, I have introduced an amendment which entails a complete repeal of the estate tax, as well. I do support repealing the estate tax, but only in balance with consideration for those whose assets are not nearly as significant. One of the purposes of my proposed amendment, as opposed to this one, was to balance the tax break between those who are striving to become wealthy and those who hope to pass on an estate of \$2 million or more to the next generation. It seems to me that in any consideration of any kind of tax relief we should try to balance those. We should also consider whether or not relief of the estate tax in this context tends generally to favor farmers and those who, while they may not make the income during their lifetimes that those in the cities and small towns make, they build a sizeable estate. And I would say the estate tax really reaches out to them, and getting rid of it really reaches out to them and tries to pass on to them a benefit. At the same time, I would urge this body not to pass this motion in itself, not because in itself it is wrong, but because in and of itself it is unbalanced and that we should strive for balance. We should try to treat people from all economic "stratas" with some consideration during the course of our debates. Accordingly, while I support, strongly support, ridding ourselves of the estate tax, I cannot support it on its own without consideration for the middle class who are bearing the brunt of the taxes that are paid in this state. Thank you, Mr. President. [LB367]

SENATOR ERDMAN: Thank you, Senator White. Senator Langemeier, you're recognized to speak, followed by Senator Gay. [LB367]

SENATOR LANGEMEIER: Mr. President, members of the body, I want to take us back

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to the way we started this. The first amendment we had was a transfer from the Cash Reserve Fund to help this package come along, and it was withdrawn. I just want to remind everybody that if we do pass AM1027, which I'm not weighing in on that at this point, I've done that in the committee, and Senator Dubas has an amendment that's going to come here in a little bit, and I just want to remind the body that if we do take these amendments, the amendment that we passed over and put on Select File to transfer out of the Cash Reserve does become very relevant. To make this all happen, we will have to transfer out of the Cash Reserve. And with that, thank you, Mr. President. [LB367]

SENATOR ERDMAN: Thank you, Senator Langemeier. Senator Gay, you're recognized to speak on the Friend amendment. [LB367]

SENATOR GAY: Thank you, Mr. President. I rise in support of the amendment. And Senator Friend had mentioned, well, I'm going to throw this out there and we'll see what happens. I think it deserves serious consideration. Senator Fulton made a good point. If this is not something we address now, will we become dependent on it later? Senator Carlson, you're correct, people are going to look at this \$2 million, and we're talking about land, securities, a lot of different things are pulled into the estate. I think we do have a serious discussion about this because with the rise in the valuations of property, a business owner could easily get to \$2 million or \$2.5 million. And what about those people who we've heard this before, I've heard it in different debates, that, well, I'm leaving Nebraska because it's a regressive tax, and those that can afford to pack up and leave, will? And that's unfortunate, because I think many of those people would want to stay. So I think we should have a discussion, a serious discussion, on this measure, and I hope we do, and let's not dismiss it that, well, I just want to talk about it. I think we should talk about it and seriously consider where we're going. So I would encourage your support. And anyone else that has some information, Senator White mentioned he was...his is tweaked a little different, but I think if we just look at repealing the estate tax, I think down the road it would be very beneficial to the state of Nebraska and the citizens of Nebraska. So I rise in support of the amendment and would encourage some debate on this, whether it's today or later, as the day grows long. But I do think this is something that merits serious consideration. I know the price tag is there, the initial hit would be now, but I never quite thought of it, as Senator Fulton mentioned, that is this something that we're going to become dependent on and we'll never have this opportunity again? And I think I never looked at it that way and that's a great way to look at it. But I do support this and I hope you'll seriously consider supporting this amendment as it exists. Thank you, Mr. President. [LB367]

SENATOR ERDMAN: Thank you, Senator Gay. Senator Pirsch, you're recognized to speak on the Friend amendment, followed by Senator Friend. [LB367]

SENATOR PIRSCH: Well, thank you, Mr. President, members of the body. I was going

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to rise and speak to this amendment. I think it is something that I wanted to explore as far as some of the statements about the Cash Reserve. And, you know, I think that this is a particular amendment that merits discussion and investigation. However, in light of my conversation here with Senator Friend, I am going to yield the balance of my time to the senator. [LB367]

SENATOR ERDMAN: Senator Friend, you have 4 minutes and 20 seconds. [LB367]

SENATOR FRIEND: Thank you, Senator Pirsch, and Mr. President and members of the Legislature. As you can tell, I'm pretty passionate about this issue, but I do know we're at a point in our discussions here that I think, practically and realistically, I think I'd like to discuss this further. We're going to have opportunities to discuss the practical aspect of an estate tax cut on Senator White's amendment too. You can see my emotion when I talk about this. I mean it. I like it, but there are some practical concerns, like I brought up earlier. With that, I'm going to tell you, members of the Legislature, I'm going to refile this on Select File so that I have an opportunity to discuss this with members, with all of you, in a less formal environment, and also with others. So with that, Mr. President, I would like to...I would like to refile this on Select, the amendment, on Select File. Thank you. [LB367]

SENATOR ERDMAN: No objection, so ordered. Mr. Clerk, items for the record? [LB367]

CLERK: Mr. President, I do. Amendments to be printed to LB367, Senator White, Senator Dubas, and Senator White; those amendments to be printed. (Legislative Journal page 1197.) [LB367]

And, Mr. President, I have a priority motion. Senator Karpisek would move to adjourn until Wednesday morning, April 18, at 9:00 a.m.

SENATOR ERDMAN: Members, the motion before you is to adjourn until Wednesday, April 18, 2007, at 9:00 a.m. All those in favor say aye. All those opposed say nay. The ayes have it. We are adjourned.